

MIDDLESEX COUNTY.

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STATE OF NEW JERSEY :
:
vs. :
:
RAYMOND SCHNEIDER. :
* * * * *

HON. PETER F. DALY,
Judge, and a Jury.

New Brunswick, N. J.
December 7, 1922.

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Re-cross</u>
Anthony Silzer	3-22	5-25		
Ferd A. David	30	39	68	
George D. Totten	69	74		
Frank Maggiore	96	98	98	
William P. Sutphen	100	101	101	
<u>DEFENDANT'S CASE</u>				
Raymond Schneider	103	127	166	169
Clifford Hayes	172			

GEORGE D. ZIEGLER
OFFICIAL STENOGRAPHIC REPORTER
SUPREME COURT EXAMINER
FIFTH JUDICIAL DISTRICT OF NEW JERSEY
COURT HOUSE } NEW BRUNSWICK, N. J.
ELIZABETH, N. J.

COURT OF OYER & TERMINER.

MIDDLESEX COUNTY.

September Term 1922.

* * * * *
STATE OF NEW JERSEY :
:
VS. :
:
RAYMOND SCHNEIDER. :
* * * * *

Transcript of stenographer's notes of evidence
in the above entitled cause, taken before HON. PETER F.
DALY, Judge, and a Jury, at the Middlesex County Court
House in the City of New Brunswick, New Jersey, on the
seventh day of December, A. D. 1922, at 11.35 a. m.

A p p e a r a n c e s:

JOHN E. TOOLAN, Esq.,
Assistant Prosecutor of the Pleas,
Counsel for the State.

WALTER C. SEDAM, Esq.,
Counsel for the Defendant.

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A jury being empanelled and found satisfactory,
they were sworn.

Mr. Toolan opens the case for the State.

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A N T H O N Y S I L Z E R, a witness produced on behalf
of the State, being duly sworn according to
law, on his oath, saith:

DIRECT EXAMINATION BY MR. TOOLAN:

Q Mr. Silzer, you are employed in the Prosecutor's office?

A Yes, sir.

Q You were on the ninth day of October 1922? A Yes, sir.

Q State whether or not you are a Notary Public? A I am.

Q Appointed by appointment of the Governor of this State?

A Yes, sir.

Q State whether or not you ever qualified. A On May 23,
1921.

THE COURT: Is there any question--

MR. SEDAM: None whatever.

THE COURT: No question on the part of the defense
as to Mr. Silzer being a Notary Public of
the State of New Jersey.

Q Mr. Silzer, do you know the defendant Raymond Schneider?

A I do.

Q Will you please point to him? A (Witness indicates),
next to Mr. Sedam.

THE COURT: Indicating the defendant.

State whether or not Raymond Schneider was in the Prosecutor's

office on October 9. A. He was.

Q State whether or not he made a statement there that was reduced to writing by you. A. Yes, sir.

Q Is this the statement? A. Yes, sir.

Q When is that statement dated? A. October 9, I think.

Q Will you look? A. October 9.

Q Whose signature is this appended to that statement?

A Raymond Schneider's, made in my presence.

Q State whether or not Raymond Schneider was duly sworn before affixing his signature to that paper? A. He was. He read it too.

Q He read it himself? A. Yes.

Q And after he had read it and been duly sworn did he sign that paper? A. He did. He also signed this below.

Q What is that below that you refer to? A. It states that I have handed to him this statement before he signed it, in the presence of Mr. David and Mr. Totten, and he said he read it over and it stated correctly what was transcribed. And that it was a voluntary statement.

MR. TOOLAN: I want to offer that.

MR. SEDAM: I want to question on it.

MR. TOOLAN: You may cross-examine now.

CROSS-EXAMINATION BY MR. SEDAM:

Q Mr. Silzer, do I understand you to say that Schneider was sworn before he signed the statement, is that the way you take affidavits? A. He read it over.

Q Yes. A. And then he signed it and I took his affidavit.

Q Then he was sworn after he had signed it? A. Surely.

Q You didn't say that at first? A Well, that is what I meant.

Q Mr. Silzer, before this statement was taken? A. Yes.

Q How many more statements had you procured from the defendant in the prosecutor's office?

MR. TOOLAN: I object.

THE COURT: I am going to allow the widest kind of latitude as to how this statement was obtained.

A There was a statement taken the day before.

Q And how many before that one? A. That I don't know.

Q Mr. Silzer, you are there in the prosecutor's office all the time, aren't you? A. Well, pretty much of all the time.

Q Isn't it a fact that five different statements were procured from Raymond Schneider before this one was procured?

A I couldn't say that.

Q Would you say that there were-- A. I know of two. This

one, and the one the day before, that I took the affidavit to. And this was made to correct any mistakes he made in the other.

Q Mr. Silzer, were there only two statements procured in the prosecutor's office, as far as your knowledge goes?

A As far as I am concerned, as far as I know. I couldn't say if there were more. I know of these two.

Q Do you know how many times Raymond Schneider was brought down to the prosecutor's office altogether? A. I do not.

Q Wasn't it at least five times, five different occasions?

A Not to my knowledge.

Q How many times did you see him there? A. I saw him there Sunday and Monday.

Q Oh, no, before that? A. That is when these statements were taken. He might have been there two or three weeks before that. I think he was, but I don't remember.

Q During that interval of two or three weeks before that how many times did you see Schneider in your office upstairs?

A I don't know as I saw him at all.

Q Mr. Silzer, this affidavit was made on October 9, was it not?

A Yes. That was on Monday, I think.

Q And you know as a matter of fact that he was brought into the prosecutor's office on Sunday October 8 around noon time, don't you? A. Well, I don't know.

A I was down here about three o'clock.

Q You were there three o'clock, and he was already there, wasn't he? A. I think he was. Three thirty.

Q Haven't you heard, as a matter of official information since then, that he was brought into the prosecutor's office about noon time on Sunday?

MR. TOOLAN: I object, to what he has heard.

A I don't know. I don't know what time he got there.

Q Prior to October 8 I ask you whether you hadn't seen Schneider in the prosecutor's office on at least three other occasions? A. I don't think so.

Q Well, don't you know? A. I know from what he told me himself he was there once before, himself, a week or two previous to that.

Q You had never seen him before that? A. I had seen him there, yes, but I don't know--I couldn't say outside of that.

Q Didn't he make a written sworn statement before you in your capacity as notary public before this Sunday in question? A. I don't think so, no.

Q You don't think so. I want to know, did he or didn't he?

A I know of these two. I can't swear to something I am not sure of.

Q Wouldn't you remember Mr. Silzer if he had made a written

sworn statement before you prior to Sunday, October 9?

A I think I would.

Q You would remember? A. I think so, yes.

Q You say that he did not make any signed sworn statement before you prior to this one that was made on October 9?

A Yes, he made one on the eighth.

Q One on Sunday the eighth? A. Yes.

Q And none before that? A. I have no recollection of it now. He may have made statements, he might have made them to somebody else.

Q I am not asking you about nobody else. A. I know.

Q I am asking you about statements made in your presence and taken by you as Notary Public. A. It is possible, but you show them to me I can tell whether they were or not.

Q If they were taken, they are in the possession of the prosecutor and not in your possession, is that so?

A Not in my possession, no.

Q What time of day or night was it that you took his affidavit?

A This one?

Q Yes. A. I think it was during the day time.

Q Well, now, don't you know? A. Well, I can't--I have so many different things to do I can't keep everything in my head.

Q Yes, but this was the most important thing on hand at that

particular time, wasn't it? A. Not necessarily, no.

Why should it be? We have lots of important things.

Q Why, because it was a charge of murder. A. Well, even so we had--

Q You had more important things than murder charges?

A No, but we have other important things too.

Q Was it around Monday noon, or Monday afternoon, or was it Monday evening that this affidavit was taken by you, this last affidavit? A. Some time during the day. It wasn't evening. I couldn't state the exact time, because I made no note of it.

Q Was it early in the morning, do you think? A. I couldn't tell you the time.

Q Who was present when the affidavit was subscribed by Schneider before you? A. Mr. David and Mr. Totten.

Q Anybody else? A. I don't remember now.

Q You don't remember? A. I do not. So many people in and out you can't always remember things.

Q Mr. Silzer, didn't this impress you as the crucial moment in this particular important case, when this man was signing this affidavit of a murder charge against another man, didn't that impress you as ^avery crucial moment? Don't you know everything that took place right there? A. Well, I know Mr. Totten was there and Mr. David and myself.

- Q Weren't there any State police in the room? A It is possible.
- Q Weren't there? A I wouldn't say there were or wouldn't say there weren't.
- Q I wish you could tell us what time of day this statement was procured. A I think it was during the morning. I am not positive of that. I don't know. I am not sure. I wouldn't set any special time.
- Q Well, you know as a matter of fact that Schneider had been in the prosecutor's office from the previous early part of Sunday afternoon, or the early part of the previous Sunday afternoon. A I know he was there Sunday.
- Q And he must have been there early in the afternoon because you got there three o'clock. A About that time I got there.
- Q Did you stay there in the building or in the offices all during the rest of Sunday? A What do you mean Sunday night and all night?
- Q Yes. A Why, no.
- Q You know as a matter of fact that Schneider was kept upstairs in the offices all the rest of Sunday and Sunday night, don't you? A I know he was there, but whether he stayed there all night or not I don't know. I wasn't present.
- Q Well you know as a matter of general information, as they tell us, that he was kept up there--

MR. TOOLAN: I object.

THE COURT: Objection sustained.

- Q You found him there on Monday morning when you came into the office, didn't you? A He was there Monday, yes.
- Q And he was there all day Monday? A I think he was.
- Q Were you present on Monday night when he was taken away?
- A I think so, yes.
- Q And that was at what time of night? A I don't know just what time. Toward evening.
- Q It was about half past ten, wasn't it Mr. Silzer?
- A Half past ten?
- Q Yes. A I don't think so.
- Q What time do you think it was? A I thought it was in the afternoon.
- Q You thought Schneider was taken away in the afternoon?
- A I think so. I am not sure of it now.
- Q Did you hear any people talking to the making of an affidavit? A Yes.
- Q Who did you hear talking to him? A Mr. Totten and Mr. David.
- Q What did you hear them say? A Asked him about a statement, if he wanted to make a statement, and what he knew about it and tell his story.
- Q What did Schneider say? A Well, he was satisfied to make a statement, he wanted to make it.
- Q Do you know whether or not it is a fact, Mr. Silzer that at the time that request was made about making a statement, that Schneider had already made several statements to these

detectives? A I knew he had made one the day before.

Q Don't you know he made one the first time he was down to the prosecutor's office? A I don't know. No. He didn't make it to me. He might have made it to Mr. David or Mr. Totten. I couldn't say.

Q Did you hear anybody, whether either one of these two detectives or the State police say to Schneider, "Now, you know you are not telling the truth, you know you have not told the truth, now come through and tell us what the truth of this thing is", did you hear them say that?

A I think there was something said about the statement, they wanted the truth. Now, they wanted the truth as to what he knew about the matter.

Q Did you hear Schneider say, "I have told you everything, I know, there is nothing more I can tell you", did you hear him tell them that at any time? A I think he did on Sunday.

Q Prior to Sunday? A No.

Q Was that statement that I have just referred to by Schneider, was it made before or after this paper? A Before, I think.

Q Didn't you hear Schneider say time and time again, "I told you everything that I know, there is nothing more for me to tell you", time and time again didn't you hear him say that? A Well, I heard him say it several times yes. That was after the statement was taken on Sunday.

Q Didn't you just say a minute ago Mr. Silzer that that was

before this statement? A Yes, that was Sunday. The other statement was taken Sunday, and this was taken Monday.

Q Before the statement was taken on Sunday you have just said this was taken before the statement was taken on Sunday, that you heard that said, is that correct?

A When the Sunday statement was taken he said he didn't know anything more, he told us all. This was taken on Monday, the statement you have there.

Q Now, Mr. Silzer, unless I misunderstood you, I may have, of course, but didn't you just say a moment ago that before the statement was taken on Sunday you heard Schneider say several times, "I have told you all I know, what more can I tell you", or words to that effect? A No. I meant before this statement was taken. That is Monday's statement you have there. You asked me if I heard him say that. I did hear him say it, yes, but that was on Sunday, if my recollection is right.

Q On Sunday before the statement was taken on Sunday, wasn't it? A After the statement was taken. I asked him if that was the truth, if he didn't know anything more.

Q I am talking about before any affidavit was taken before you as a Notary, didn't you hear Schneider say, not once but several times, "I have told you all I know, what more can I tell you", didn't you hear him say that? A Sunday before the affidavit was taken.

Q Yes, sir. A It is possible, yes.

Q You are sure he said it, aren't you Mr. Silzer? A I know he was asked if he knew any more, and he said, "I have told you all I know".

Q Before the statement was taken on Sunday that was?

A Before he swore to it, yes.

Q Was it before the statement itself was made, or after the statement itself was made?

MR. TOOLAN: I object to this latitude. It seems to me that the issue here is whether Schneider signed this statement. If that is his signature on there, and it was taken in proper form, and in due course, unless there is some defense that he took it when he was out of his mind, or something else, I do not see that this line of examination is material. I was by no means through with Mr. Silzer, and I thought what counsel wanted to do was to examine him as to the signature on this particular paper. Now, if the entire history of Raymond Schneider with the prosecutor's office is to be hashed out and aired, I know the history of it, and I think we can get at it and develop it more quicker than counsel for the defense, who does not know what the transactions with the prosecutor's office really were.

THE COURT: The trouble is you made an offer of a paper.

MR. TOOLAN: Yes, I have made an offer, and we should confine counsel to his examination on this particular paper. Now, Schneider, and I am willing to state it on the record, signed three papers for the prosecutor's office.

THE COURT: It is not that. You made an offer of the paper, and if I was to act upon that and admit the paper, counsel for the defendant had a right to first examine as to the paper. You simply made the offer, just as an offer at the time, and if you had simply marked it for identification, there would be no right to a cross-examination at this time.

MR. TOOLAN: Counsel has the undoubted right to cross-examine as to this particular paper, yes. But not to go back into the paper signed on September 24, and the paper on October 8. This paper is signed on October 9, and it is the only one we are offering.

THE COURT: Evidently you do not understand what is in my mind, and what I have tried to express. You made an offer of the paper. The usual response to that offer is to

either refuse or reject the paper, unless you make the offer and couple it with the statement, I simply want it marked for identification now. And if that is done, then there is no cross-examination. But if the offer was made for me to act on whether that paper should go in now or not, he has undoubtedly the right to cross-examine as to how the paper was acquired, before I have the duty to pass upon it.

MR. TOOLAN: Yes, I appreciate that, but I think that examination should be confined to this paper, and not to every paper that Schneider has signed for the prosecutor's office. That is my objection.

THE COURT: If Mr. Silzer was asked about any other papers leading up to this particular paper, then the examination is competent. As to any other matters with which he was not connected, then he is not a competent witness, because then he would only talk hearsay. But, if this is a paper that is the sequel, or the following up, or immediately connected with papers of a like tenor, and for the same purpose, and Mr. Silzer himself was the Notary, then the cross-examination as to just what led up to this

final paper, if I may use that expression, is entirely competent evidence upon the question whether or not I shall admit this paper in evidence.

(Question repeated by stenographer)

THE COURT: If you couple that offer with saying I now simply want to mark it for identification, that will shut this all off until you finish your examination.

MR. TOOLAN: I suppose I may as well have this now as any other time.

THE COURT: Mr. Silzer has said the statement you have referred to was made in connection with the paper that was made on Sunday. Now, what do you want to know?

Q Whether or not the statement made by Schneider, which you say you heard several times, to the effect I have already told you all I know, what more can I say, or words to that effect, whether those words were uttered by Schneider before or after the actual making of the statement on Sunday?

THE COURT: As I remember Mr. Silzer's testimony he has repeatedly said, at least three times, that those statements were made upon Sunday.

MR. SEDAM: I understand that. That is what I am talking about, Sunday's statement. Your Honor has already ruled that any statement

connected with Mr. Silzer, made by him, or before him, may be examined upon.

MR. TOOLAN: If it was made on Sunday it was surely made before this paper on Monday.

THE COURT: Proceed.

(Question repeated by stenographer)

THE COURT: You may answer that.

A Why, his statement was taken down and it was supposed to be complete; he was asked whether there was anything further, and he would say, "I have told you all I know". That was before the paper was sworn to.

Q That is not an answer to my question.

THE COURT: I think it is.

Q He was questioned as to what he knew, and as he went along he would say, "I have told you all I know". "Now, isn't there anything further you know?" Then he proceeded along and finally the paper was finished and it was written and he signed it.

Q Before any statement was procured on Sunday, the day that he was taken to the office, had not Schneider declared, in your presence, "I have told you all I know, what more can I say"? A I don't recollect it.

Q Do you say that he didn't say it? A I wouldn't say so, no, but I have no recollection of it.

Q Mr. Silzer, Schneider had been in the prosecutor's office at least twenty-four hours before this statement of Monday was procured, had he not?

THE COURT: How can he tell that? He has already told you he went away from the prosecutor's office on Sunday afternoon, or evening, and did not get back until the next morning.

How does he know? He said when he left on Sunday Schneider was there and when he got back on Monday morning Schneider was there.

In the interval of course he cannot testify.

Q On Monday what time did you go to the prosecutor's office?

A I can't remember exactly the time. Usual time.

Q Around eight-thirty? A About eight-thirty or nine o'clock. Somewhere around there.

Q Do you know whether or not Schneider was out of the prosecutor's office during Monday until he was taken away to Somerville? A That I don't know.

Q Was he there all Sunday morning? A He might have been out. I couldn't say.

Q He was there Monday afternoon when you came back from lunch, wasn't he? A I don't know. I don't go out to lunch.

Q If you don't go out you must have been there and you know whether he was there. A I may have been in and out of

the building at times during the day.

Q He was there Monday afternoon, wasn't he Mr. Silzer?

A I think so.

Q You know so, don't you? You know he was, don't you?

A If I have so testified to, it must be so.

Q What time did you leave the office on Monday afternoon, on

Monday evening? A I don't think--not before five o'clock.

Q Was he there then? A I don't think--

MR. TOOLAN: I object. This is certainly going
afield from this paper. The paper, the
testimony is, was signed in the morning.
Now, we are up to Monday afternoon.

MR. SEDAM: It is not the testimony that it was
signed in the morning.

THE COURT: I do not think so. I do not think
he has testified as to the time of the day
it was signed.

MR. TOOLAN: It is my recollection it was signed
in the morning. My recollection of the
testimony of Mr. Silzer is, and I would like
to have the question asked.

Q When was the statement signed Mr. Silzer? A My recol-
lection is in the morning.

Q Your recollection is in the morning? A Yes.

- Q If you think real hard, don't you think that it was in the afternoon? A I do not.
- Q Then, after this statement was made, as you think, in the morning, when was the last time that you saw Schneider in the prosecutor's office? A I couldn't say.
- Q He was there at five o'clock when you went home, wasn't he?
- A I didn't say so. No. I don't think he was. I think he was taken away before then.
- Q You don't know as a matter of fact that he wasn't taken away until half past ten at night, do you? A Half past ten at night?
- Q That is what I said, yes, sir? A If he was I wasn't there.
- Q What was Schneider's physical condition at the time of making this statement on Sunday? A He seemed to be all right as far as I know.
- Q He seemed to be all right? A As far as I know, yes. I am not acquainted with him.
- Q What is that? A I say I have never been acquainted with him.
- Q You saw that he had a very badly festered finger, didn't you? A Yes.
- Q You know that that finger was treated upstairs in the prosecutor's office, don't you? A Yes, sir.

Q Poulticed and so forth? A Yes, sir.

Q And as a matter of fact you know that that finger was subsequently lanced in Somerville, you heard that?

A I heard of that, yes.

THE COURT: Strike that out.

Q Was Schneider wide awake and active in his mind at the time of making this statement? A He was.

Q Didn't seem haggard and worn out, and didn't say, "I will say anything", he didn't say anything of that kind?

A No, sir.

MR. SEDAM: That is all.

DIRECT EXAMINATION (Continued) BY MR. TOOLAN:

Q Mr. Silzer, did you ever see Raymond Schneider in the prosecutor's office, that is, you personally, not what you have heard from outside sources, did you ever personally see him in the prosecutor's office yourself prior to Sunday the 8th of October? A I have no recollection of it.

Q On Sunday the 8th of October, where were you in the morning, at home? A Home.

Q Home until about what time? A Somewhere around three o'clock.

Q About three o'clock in the afternoon you received a telephone call from the prosecutor's office and as the result of that

- you came upstairs? A I did.
- Q Who was in there at the time? A Mr. David and Mr. Totten, there were several there, I don't recollect.
- Q Was Mr. Fitzpatrick there? A Fitzpatrick was there.
- Q And two State troopers were there, and Sergeant Lamb?
- A Lamb and Spearman, I think. I don't remember whether prosecutor Beekman was there at that time when I came in or not.
- Q I arrived there a little later, did I not? A Yes, sir.
- Q About what time do you remember? A I couldn't say now.
- Q And in due course prosecutor Beekman came there also?
- A Yes, sir.
- Q What room were they in upstairs? A I think it was in the prosecutor's room.
- Q In the inner office, is that right? A Yes.
- Q Where was Schneider sitting? A I think he was sitting in a chair along side of the desk, or else on the couch.
- Q And what was he doing? A I don't know just now what he was doing at the time.
- Q Well, was he talking or not? A He was talking to somebody.
- Q When you came there what happened? A Why, I was told he wanted to make a statement.
- Q Yes. What did you do then? A I took his statement

Q Did you take it down stenographically? A Yes.

Q Was that statement elicited by means of question and answer, or was it a straight statement of fact made by Schneider?

A Possibly some questions were asked and then I think he continued on with his story.

Q The main part of the story, however, was his own--

A Was his own statement.

MR. SEDAM: I object.

THE COURT: It is very leading. Go on.

MR. TOOLAN: I think counsel has opened up the door into a view of the prosecutor's methods.

MR. SEDAM: Well, then you object in the regular way to my question.

Q Do you remember whether or not that statement was completed when I came into the prosecutor's office? A No, I do not.

Q Now, that statement, after it was taken down stenographically, what was done about it? A Why, it was written up.

Q And state whether or not that statement was sworn to.

A It was.

Q That was the statement taken on Sunday the 8th? A Yes, sir.

Q What time did you leave the prosecutor's office on Sunday, if you remember? A I don't know now. Long towards

evening.

Q Do you know how late in the evening? A No, I do not.

Q You came back again the next day? A I did.

Q Why was this statement, which I showed to you, and which you have identified, statement of Monday, October 9, why was that taken? A Why, Schneider was asked if he

wanted to make another statement, or make any corrections in his former statement, and he said he did; then he made that statement of the 9th to correct any errors or omissions that he might have made in the other statement.

Q How was that statement taken down? A Stenographically.

Q Written up on the typewriter? A Yes, sir.

Q And shown to him? A He signed it and signed every page.

MR. TOOLAN: That is all I have.

CROSS-EXAMINATION BY MR. SEDAM:

Q Mr. Silzer, after this statement on Sunday the 8th, you say that Schneider said, "That is everything I know", after he made that? A Yes.

Q Can you tell me why the question was put to him if he wanted to change or wanted to correct this statement, the statement made on Sunday? A I can't tell you why, no.

Q Isn't it a fact, Mr. Silzer, that Schneider was held in that prosecutor's office, in the presence of these detectives,

all night urging to make and change this statement?

A I don't know.

THE COURT: Why do you ask him that question?

MR. SEDAM: Because I want to know whether he knows about it.

THE COURT: You have asked him at least a half a dozen times, and he told you that he wasn't in that office from some time Saturday afternoon, or Sunday afternoon, until the next morning.

MR. SEDAM: My point is whether--

THE COURT: The question is overruled.

MR. SEDAM: All right, sir.

Q Do you know why, Mr. Silzer, after this statement had been made on Sunday, and he had said that he told all that he knew, do you know why he was asked whether he wanted to make another statement and change the first one?

A I do not. I didn't ask him.

Q Did you hear anybody, in your presence, urging Schneider to change the statement which he made on Sunday and make another one? A No, sir.

Q Were you present when he did change the statement made on Sunday? A I was. I took it. That was taken on Monday.

Q Don't you know as a matter of fact, Mr. Silzer, that they

were urging Schneider to make a new statement, to change the statement made on Sunday, with the idea of pinning this charge on some particular person? A No, sir.

Q You saw Hayes, the person named in the affidavit? A Yes.

Q You saw him there in the prosecutor's office Monday, didn't you? A Yes.

Q Did you hear loud sounding and swearing issuing from the court house building on that afternoon around three o'clock?

A No, sir.

Q Did you hear any swearing upstairs in the prosecutor's office while this statement was being procured? A Not to my recollection.

Q Didn't you see Hayes brought in the room and confront Schneider, and make an accusation against him, didn't you see that? A I don't think I was in the room at the time when he was brought in there.

Q Do you know whether or not Hayes was brought in from another room and confronted Schneider? A I think he was.

Q Did you hear what was said by Hayes? A No, sir.

Q Did you hear the answer made by Schneider? A No, sir.

Q Did you hear any swearing or loud talking? A I did not. I was in the other room writing up some of my work.

Q If you were in the other room writing up some of your work, Mr. Silzer, you are in a position to say that there was no

loud talking then, is that right? A I wouldn't say there was or there wasn't, when the door is closed. I don't pay any attention.

Q Didn't you hear the word "liar" shouted back and forth?

A No, sir.

Q "Damned liar" several times were between this boy Hayes and Schneider? A I did not.

Q There wasn't any excitement there, at all, was there?

A Not to my recollection. I don't know why there should be.

MR. SEDAM: That is all, Mr. Silzer.

MR. TOOLAN: I want to offer this paper.

MR. SEDAM: No objections.

THE COURT: It will be admitted.

(Paper admitted in evidence and marked exhibit-P-1)

MR. TOOLAN: If there is no objection I will

offer this statement of October 8. As long as we are to try out the whole issue.

MR. SEDAM: Will you offer the other one too, the third one?

MR. TOOLAN: Yes, I will offer all of them so you will have plenty of opportunity to talk.

BY MR. TOOLAN:

Q Is that Mr. Schneider's signature? A Yes, sir.

Q Is that the statement of October 8? A October 8.

MR. TOOLAN: I would like to offer it.

THE COURT: Any objections?

MR. SEDAM: None whatever.

THE COURT: It is admitted.

(statement entered in evidence and marked
Exhibit-P-2.)

MR. SEDAM: Whether it goes in now, or not,

Mr. Toolan has already made the statement.

THE COURT: It is going in, in the regular way.

F E R D A. D A V I D, a witness produced on behalf of
the State, being duly sworn according to
law, on his oath, saith:

DIRECT EXAMINATION BY MR. TOOLAN:

Q Mr. David, you are a detective connected with the prosecutor's
office, is that correct? A Yes, sir.

Q Do you know Raymond Schneider the defendant in this case?

A- Yes, sir.

Q When was he first called to the prosecutor's office?

A On September 24, as I remember.

Q And at that time he made a statement, did he? A Yes,
sir.

Q Is this the statement that was made by him and reduced to
writing at that time? A Yes, sir.

Q In whose presence? A William Fitzpatrick.

Q And you? A Yes, sir.

MR. TOOLAN: I want to offer that statement.

MR. SEDAM: All right. I have not seen it nor read
it, but that is what I want.

THE COURT: You have no objections?

MR. SEDAM: No, sir.

THE COURT: It is admitted.

(Statement entered in evidence and marked Ex-P-3.)

Q After that statement was made state whether or not it was repudiated. A That was repudiated; yes, sir.

Q By Schneider? A Yes, sir.

Q How long after that statement was made was it repudiated?

A On the 8th of October.

Q I mean on that same day, after the making of that statement, was that statement repudiated? That is, was Pearl Bahmer brought in there? A Yes, that was repudiated.

Q When and why was it repudiated? A When he was confronted by Pearl Bahmer and she told him where they had both been together on the several different dates in the statement that he had made to me, then he repudiated it.

Q That is, that statement purported to define their actions and whereabouts on the night of September 14, didn't it?

A Yes, sir.

Q State whether or not Schneider was in Pearl Bahmer's company that night, according to his statement?

MR. SEDAM: I object to that.

A He was.

THE COURT: Why?

MR. SEDAM: Because the affidavit is what he is supposed to have said on the occasion of September 28, whatever date it was.

MR. TOOLAN: There are some things in these

statements I would like to avoid reading,
or else I can read all of them.

THE COURT: Yes, that is true. There is something
in those papers there is absolutely no need,
or probably no need to go before the jury
at all.

MR. SEDAM: That undoubtedly is true. The point
would be--

THE COURT: The prosecutor says that is the only
statement, he has not read the statement to
the jury. He has the right, since it has
been admitted, to read it.

MR. TOOLAN: What I am doing now is endeavoring
to get around some of the statements made
in here, which I do not wish to read to the
jury. The jury can read them themselves.
It is in evidence. I want to show what
transpired on that night, according to
Bahmer and then why that was changed. Counsel
will just allow me a little latitude in that.

THE COURT: Why not quote the statement, and then
ask it, and Mr. Sedam will be more easily
able to--

Q This statement purported to give you information as to the

defendant Schneider's whereabouts on the night of September 14, is that correct? A It did; yes, sir.

Q Subsequent to that time Pearl Baymer was questioned?

A Yes, sir.

Q That is on that same day? A Yes, sir.

Q State whether or not she told the same story? A She did not. She contradicted his story.

Q State whether or not Schneider was confronted with Pearl Bahmer. A He was.

Q What did he say in reference to this statement? A He finally said that that was a lie, that that story wasn't true at all; that the Bahmer girl had told the truth in her statement.

Q That statement was made on September 24, is that correct?

A Sunday, September 24.

Q When was Schneider next brought to the prosecutor's office?

A On October 8, on Sunday.

Q And by whom was he brought to the prosecutor's office?

A As I remember by Detective Fitzpatrick, whom I sent him out to get.

Q About what time did he arrive there? A Well, afternoon time. I judge in the neighborhood of one o'clock he came in, if I remember right.

Q And who was in the prosecutor's office at that time?

- A I was there, Sergeant Lamb was there.
- Q That is a State trooper? A State trooper. Corporal Spillman, and Trooper Dickman, as I remember.
- Q And detectives Fitzpatrick and yourself? A Yes. And then detective Totten came.
- Q From Somerset? A Yes, sir. And then later, after getting the first statement, or after our first talk with Schneider, then I telephoned for you and Prosecutor Beekman was telephoned to come, and you came early in the evening, as I remember it.
- Q Where was Schneider at the time he made the statement on Sunday, October the 8th? A In the prosecutor's room.
- Q That is the inner office? A Inner office.
- Q How was that statement elicited, was it by the question and answer method, or by a statement from him? A Well, both.
- Q And it was taken down stenographically? A After Mr. Silzer came, yes. I telephoned for Mr. Silzer and he arrived about three o'clock. We had had quite a talk with him before then, and after he had made a statement to us verbally, then we sent for Mr. Silzer and then he came and took it down stenographically.
- Q Was that statement made by Schneider willingly? A Yes, sir.
- Q How long after he came to the office did he make the state-

ment accusing Hayes? A He began with that somewhere between two and three o'clock, just before I telephoned for Mr. Silzer to come and take it stenographically.

Q So that he had been in the office from one to two, before he had made that statement? A Yes, from the neighborhood of one, it might have possible been half past twelve. We will say from half past twelve to the neighborhood of two is when he began to tell us this story.

Q That statement was then reduced to writing and sworn to by him, as appeared on that affidavit dated the 8th of October? A Yes, sir.

Q Where was Schneider during the remainder of Sunday afternoon? A He remained in the inner office until I judged about six or a little after six o'clock,--I fixed the time, by the way, because of a baseball game that was being played up to Bucleuch Park. After he had made this statement I, with detective Totten, immediately went out to pick up Hayes, and we waited until the baseball game was over, which was a short time after six o'clock, at Bucleuch, when Hayes was brought in here Schneider was removed from the inner office to the room in the rear of the District Court Clerk's office. And then Hayes was questioned into the room.

Q State whether or not Hayes was confronted with Schneider.

A He was.

Q About what time? A Some time during the night, I don't remember just what time, some time in the evening.

Q Will you state what Hayes said to Schneider told this story?

A He told Schneider that he was a damned liar.

Q What did Schneider say back to Hayes.

A Schneider said, you are the liar. And Hayes said to him, "Do you know what you are doing with me, you are making a murderer out of me, and you are sending me to the electric chair, what is the matter with you, are you crazy".

Schneider again repeated, "You are the liar, I am not the liar".

Q Did he insist upon the truth of that statement? A He did.

Q Where did Schneider remain during Sunday night? A He remained most of the night into the back room in the rear of the District Court Clerk's room.

Q And on Monday do you know when that statement taken by Mr. Silzer, dated the 9th of October, and the one that is in issue in this case, was taken, do you know what time in the day? A In the morning, in the neighborhood of ten o'clock it was dictated.

Q Why was that second statement taken on Monday the 9th?

A Because of him being questioned again, and at times arguing

whether his story could be true, and was true. He was interrogated by several of us, by Prosecutor Stricker and by Prosecutor Beekman, by the troopers, I questioned him myself as to whether it was the absolute truth or not, and he still stuck to the story that it was.

Q Why was that done Mr. David? A Why, most natural thing in the world, one man charging another with murder, it was a case of pinning it down and see whether there was the absolute truth there. And that was done in every way, so as to be sure as to whether a mistake was going to be made or not, before the affidavit was taken by Tony Silzer.

Q State whether or not in the affidavit made on Sunday the 8th, that he accused Hayes of murder, that is the affidavit made on Sunday the 8th, did that accuse Hayes of the murder? A Yes, sir.

Q State whether or not he insisted that was the truth, when he was confronted with Hayes. A He did.

Q State whether or not this affidavit on Monday the ninth accused Hayes of the murder. A It did.

Q What time did Schneider leave this building to be brought over to Somerville? A In the neighborhood of, well, sometime after nine o'clock.

Q Monday night? A Yes.

Q State whether or not he was questioned before leaving here

as to whether or not that was the truth? A He was questioned in the presence of Detective Totten, in my presence, Totten said at the time, shortly after noon time, when I was taking Hayes away to take him to the Somerville jail, I heard Detective Totten say to him, here now is a chance for you, if this is not true, for you to recant, Hayes is going to go to jail. Do you still say this is the truth? He said, I do, it is the truth, I am telling you the truth.

Q Hayes was taken over to the Somerset County jail about what time? A Shortly after one o'clock. About half past one, if I remember.

Q On Monday afternoon? A Yes, sir.

Q And Schneider was taken over about what time? A Along in the neighborhood of nine o'clock at night he left here.

Q Why was Schneider kept here near to nine, after Hayes had been taken? A To still give him a chance, going over the thing, as to whether there was any truth in it or not; and then beside that, because of the crowd of people who were outside, who were standing around very anxious to see him. There were several hundred people. And that was purely the reason that he was kept until late that night, while, of course, we were talking on to other matters going over the affair.

Q Detective David were you present at the hearing before the Justice of the Peace, Mr. Sutphen, in Somerville, when Hayes was arraigned for a hearing? A I was not.

Q So that you don't know what transpired there? A No, sir.

CROSS-EXAMINATION BY MR. SEDAM:

Q How soon after the report came to you that Schneider and the Bahmer girl had found the bodies did you first bring him down to the Prosecutor's office? A On September 24.

Q Who was present on the day of that interview?

A William Fitzpatrick.

Q You and he alone with Schneider? A Yes, sir.

Q And it was on that day that this first yellow sheet statement was made? A Yes, sir.

Q Did you ask Schneider then whether he was telling you the truth? A I did.

Q What did he say? A He said at that time it was the truth, that is at that particular time, after I had written this down, and before he signed his name to it.

Q When after September 24 did you bring him down there again?

A On October 8.

Q Do you mean to say, Detective David, that he wasn't in your office between September 24 and October 8? A I don't remember of him having been there but on those two occasions

September 24 and October 8.

Q You don't know as a matter of fact that he was down at your office five different times? A I don't know, I certainly don't know, and I am sure that he wasn't while I was there. He was never in the office any five times while I was at the office.

Q On October 8, which I believe was Sunday, what time did you pick up Schneider? A I didn't pick him up.

Q Didn't you go after him? A I did not. Detective Fitzpatrick went and got him. I so testified before on direct examination. I got Hayes. Fitzpatrick got Schneider.

Q You were present in the Prosecutor's office when he was brought in, were you? A Yes, sir.

Q And you think that may have been half past twelve or around one o'clock? A Somewhere in the neighborhood of one o'clock.

Q What was your object in bringing him there on October 8?

A Because of additional information that I had heard with reference to the murder, and the fact of him being out on that night of September 14, it was for further questioning.

Q Did you remind Schneider, Schneider you had made this statement on September 24, and you have said that you have told me the whole truth is that all you have got to say,

did you go at it that way? A I asked him if he had anything further to say in the matter.

Q What did he tell you? A He said yes that he did.

Q He told you that he had something further to say? A Yes.

And then he told me--I asked him why, and what he had to say. Well, he said because since I have been here last, that poor girl of mine, Pearl Bahmer, has gotten in a lot of trouble, and her father, or at least her people have had trouble with her, and because of their attitude,-- he, of course, didn't say it in that way, but because of their attitude towards Pearl he wanted to do the square thing by her and tell the truth into the matter. Then I followed up by taking this yellow sheet of paper and going over it again as to his movements on the night of September 14.

Q Was or was not your observation as a detective that Schneider was not a strong fellow mentally, as you were talking there with him? A Not very strong; yes, sir.

Q And when he was brought down to the Prosecutor's office that afternoon he had no friends nor relatives anywhere around there, did he? A His father was outside of the building, I believe.

Q You know he was brought down-- A There was no one inside.

Q The father was brought down at the same time that the boy

Descent stairs & approach (fumbling)

Hearing
P. 405
406,

Saw no letters: Saw no card of foot.
" " bill fold;
Saw cards & papers; Saw piece of chain on return
(fix this also on return with 1 piece)

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Fix Pearls List; also Schmeider

Hearing 403.

1²¹ passing - both sd ~~sd~~ 2 bodies & passed on

when last at St. Pears, Lane?

when last saw Pearl?

when last heard from or comm -

immediately last her?

prior
to
Sept 16

Hearing 393.

met Pearl by appointment 730-8. am
when make appointment -
working?

How Support - Link

learned 2 yrs prior to Dec 7/22

Plate W.S. 128

" " 169

Known Pearl since ^{Aug.} 1921 & went out with her since then
Information with her

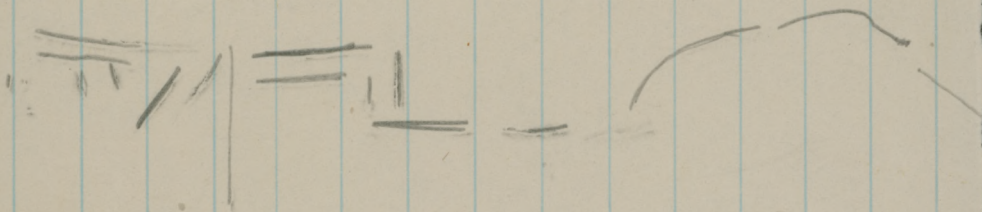
How long? (5-10 minutes - Hearing 396
1/2-3/4 hr - 5 w.)
What do?

" Must rooms - says Pearl's "pick-up" (Hearing 401)
but see Schmeider first
met of recently

(over)

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was brought down, wasn't he? A I saw the father outside of the building shortly after he was brought in, here, and the father asked me how long I expected he would remain here. I told him I didn't know. Might be a half an hour, and it might be an hour.

Q You know, as a matter of fact, Schneider's father was not allowed inside the door of the prosecutor's office all day Sunday or all day Monday, don't you? A I don't know that anyone put him out, or don't know whether he tried to get in or not.

Q Don't you know that he did try several times to see his boy? A Not to my knowledge. He asked me on one occasion, that was right on the start, when I expected he would be through. Never expecting at that time to get this sort of a statement from Schneider, I said possibly in a half an hour or an hour.

Q How many times did you promise Schneider, or tell Schneider during the time he was there that he could go home in a half hour or an hour? A I didn't promise him anything. I was talking to his father and I said that he might.

Q How many times did you tell Schneider when he was there that you would let him go home in another half hour?

A I didn't tell him at any time that he could go home in a half hour.

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Q At no time did you make any statement? A No, sir.

Q Don't you know as a matter of fact that the first time his father or any relative was allowed to see him was about half past six on Monday night, when he went in the office with me? A I don't know that. I was in and out of the office. He might have been in there different times when I was going from one room to another. For instance, across the hall. Or out of the building.

Q On this Sunday afternoon that you have referred to, October 9, the Bahmer girl was in the building, upstairs, wasn't she? A We brought her in; yes, sir.

Q Wasn't Hayes there during Sunday afternoon? A Hayes, of course, in the evening. He was there after the baseball game had been finished at Bucleuch Park, some time in the neighborhood of six o'clock. He was not there before that.

Q Was Schneider confronted by the Bahmer girl during Sunday afternoon or Sunday evening? A I think in the afternoon, if I remember right, I walked home with Pearl Bahmer, after going down to get her, bringing her up here, and after she confronted him I left the building with her and took her home so that she would not be annoyed by newspaper reporters, and took her home in a roundabout way.

Q As I understand you, there was this Sergeant Lamb, Officers Spillman, Dickman, Detective Fitzpatrick, Detective Totten,

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Prosecutor Toolan, Prosecutor Beekman, all in the room at the same time while Schneider was being questioned, is that so? A I didn't say that.

Q Well, they were all there. A They came at different times during the day.

Q Was there any period of the day when they were all in the room at the same time? A No, I don't believe there was. In the day or the evening someone was on the go back and forth. Part of the men were talking to Schneider and part of the men were talking to Hayes.

Q Which of the gentlemen I have mentioned were present at the time Schneider made his statement, and signed this statement? A Which statement?

Q The statement on Sunday. A There was myself--

MR. TOOLAN: I think the statement will show that.

A Yes, the signatures are all there.

Q Were there any gentlemen present besides the ones whose names are appended to the statement? A There may have been some of the others whom I say were going back and forth between the room that Hayes was in and the inner room of our office.

Q And that Hayes didn't come there until six? A Well, I should say at no time during the day. I suppose you mean the evening too. That was after they were both brought in,

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they were circulating back and forth.

Q Mr. Silzer wasn't there Sunday evening at all after he took the statement? A I didn't say Silzer was there. I haven't mentioned yet that Silzer was there.

Q The statement that was procured on Sunday was sworn to before Mr. Silzer, wasn't it? A It was.

Q And that statement was taken on Sunday afternoon, was it not? A Sunday afternoon or early Sunday evening, something like that.

Q Well, now, which, Mr. David? A I am not sure.

Q Haven't you already said that it was taken on Sunday afternoon? A Sunday afternoon or early Sunday evening. I can't say positive as to that. It was taken, of course, before Mr. Silzer went home. Now, just what time he went home in the early evening I don't know.

Q Was it taken before or after Schneider was confronted by Hayes? A That I don't remember.

Q You don't remember that? A I don't remember. I don't remember whether Mr. Silzer was there at that time or not when Hayes was confronting Schneider.

Q Why, Mr. David, wasn't it after they had confronted each other in that afternoon that Schneider made these statements against Hayes, and Hayes back against Schneider on Sunday afternoon? A Schneider, at least Hayes wasn't in the

room in the afternoon with Schneider. It was at night that Hayes was brought into the room with Schneider.

Q Then you say, and what I understand you, that this statement must have been made after Hayes came there, wasn't it?

A There was a statement made, of course, after Hayes came there.

Q Is that the one that is offered in evidence here, taken on Sunday? A I can't tell you. I don't know just which one it was.

Q How many statements were there taken on Sunday? We are talking about one particular statement on Sunday, now.

A If this is the one particular statement, that is all there is to it, that is the one.

Q Well, now, I want to know when that one was made, if you know? A I can't tell you just exactly.

Q Don't you know it was made after Schneider had been confronted by Hayes? A I would not say that positively. That is confusing to me.

Q That is rather confusing? A Yes, because I was busy with the matter, going back and forth, handling a lot of it.

Q Now, Mr. David, did you or anybody in your presence warn Schneider of the fact that he was making a statement which incriminated himself? A We did; yes, sir.

Q What did you say, what language did you put that to him?

A Put it right to him.

MR. TOOLAN: I object. That appears on the face of the statement, on all the statements.

THE COURT: Yes, but he can answer that question.

MR. TOOLAN: The testimony is that it has been read to him, and that is offered in evidence now.

MR. SEDAM: What is in the statement?

MR. TOOLAN: That he knew that anything he said might be used against him. That he was incriminating himself and it would and could be used against him.

THE COURT: I will allow the question.

(Question repeated by stenographer)

A When he was making this statement, or after he had finished it?

Q Before he ever started to make it? A Before he began to make the statement at all?

Q Yes. A I asked him if he wanted to make a statement and straighten the matter out as to where he was on Thursday night September 14. He said he did because of putting Pearl Bahmer straight. Then he went on to tell the story of where they had gone, where he had left her, where he had stood on the corner with Hayes and another young fellow,

where Bahmer and the daughter had passed them, and where they followed them, where they continued up the street, where he took his coat off, as he said, and gave it to Hayes to put on, where they continued up, that is Bahmer and the daughter, and sat down on the grass, and where Hayes had walked up to close by where they were and had laid on to the grass to try to get the conversation that was going on between Bahmer and the daughter, he told me what he expected was going to happen between the father and the daughter, and then continued on with the story until he got to the field, and told what had happened up there, and I said to him at the time, do you know what you are doing and what this means, and he said, yes, but it is the truth.

Q Did you warn him, either in a friendly way, or under the law, either one, that what he was saying could be used against him and might incriminate him and make him a party defendant? A Yes, I did.

Q You told him about that? A Yes, I did.

Q Who was present when you did that? A Sergeant Lamb, Corporal Spearman, I am sure of those two.

Q Were those two gentlemen putting questions to him at the time? A The three of us, after he had started to tell the story, we were asking him the different questions.

- Q The three of you firing questions at him? A Not firing questions. We asked him questions as he went along, and when we would go from one point to another, different stopping points, and about their movements around Bucleuch Park, of course, one would ask him questions and then the other of us would ask him questions as to the different movements.
- Q What time was this going on? A That was going on in the neighborhood of two o'clock in the afternoon.
- Q Wasn't Mr. Silzer called in right away to take that down?
- A Not until after we had got that much of it, when he began to accuse Hayes, then I telephoned for Silzer to take it down. Before, this, I am telling you, was done verbally between us. I wasn't taking down any written statements.
- Q This was all verbal? A Surely. And as soon as he got as far as that, then we sent for Mr. Silzer to get it down in the regular form.
- Q It was getting very interesting then, wasn't it? A It surely was; it was getting down to crime.
- Q He was talking about a revolver that Hayes had then, wasn't he? A He was, yes.
- Q Did you say to Schneider, "Schneider, don't you know that you went out there with Hayes, and you knew he had a revolver, and went out there looking for somebody, that you are putting yourself in just the same position that Hayes is in, if this is true", did you tell him anything like that?

MR. TOOLAN: I object because of the frame of the question. It was not necessary to tell that specific thing. I don't know whether it was told or not. But the fact is that it has been testified here that Schneider was warned that anything that he said would be used against him, and that he did not have to speak, if he did not want to. And I submit that was all that we were required to do under the law.

THE COURT: That is often true, and it is a question whether that is required to be done under the law. If a statement is voluntary it is voluntary. There is no longer any legal necessity to enjoin a man as to the danger of his telling the truth, but it is usual practice.

MR. SEDAM: And it has been developed that under this testimony that there had been three men there putting questions to this man, a voluntary statement.

THE COURT: I have not finished my statement. But at the same time it is proper cross-examination, it seems to me, to get out any conversation that may have occurred incident to the making of this statement that will help us to get the true situation

and the feelings of the parties at the time.

(Question repeated by stenographer)

A Not exactly like that. As he went along with his story I told him that if it was a fact if he and Hayes, as he said, had gone together, and he was present with him, it would seem to me as though it would look very black for him. He went along with the voluntary story and the only time that he was asked questions by either of the three of us was when getting to different points in Bucleuch Park and the two different places, and as I remember where Mr. Bahmer sat down with his daughter, after being annoyed by Hayes, the points that were confusing to us as to the streets they took, and the different parts of Bucleuch Park they were in, and where these fellows had gone circling around trying to find Bahmer and his daughter, after dark, after they had lost them in that neighborhood.

Q This was all taken verbally, a verbal conversation?

A That was all verbal.

Q Then after Mr. Silzer was called? A Yes.

Q The whole thing was gone over again from beginning to end?

A Yes, from beginning to end, and then he volunteered this information as he went along to Mr. Silzer, and Mr. Silzer took it down stenographically.

Q I don't suppose you and the troopers had to prompt him at all? A I didn't do any prompting after that, because I went to talk to Hayes to get his side of the story at that time.

- Q Who took your place in the room, do you know? A I don't know, because I wasn't in that room.
- Q Didn't anybody come in before you went out? Didn't Detective Totten come in? A The different officers were in and out of the room. I can't pin down to just who was there, and how long they remained there, or anything about it. The different officers were in and out during the afternoon and evening and during the night.
- Q Detective David, if this boy was there in the position of a witness for the State, presumably, as you thought, telling the truth, why was it necessary to have several officers running in and out of the room while you were questioning him? A They were in and out listening to what was going on. It was a remarkable story. It was a murder case.
- Q And you having started in on the verbal questioning, how was it that you didn't stick to the job and get the whole thing complete from him, so that you had a concise statement from him, instead of your going out and leaving it to Mr. Silzer and the two troopers? A His mind was good enough and bright enough for that, and when Mr. Silzer came, I told Mr. Silzer that Raymond Schneider wanted to make a statement. I asked Raymond whether it was so; he said yes he did, he wanted to get it off his mind, that he had worried a long while over it, or some words to that effect. I told Mr. Silzer to prepare and get ready to take these statements. He sat on the one

side of the table, and Schneider sat on this side of the table, and I said now Schneider go ahead and tell your story to Mr. Silzer and let him take it down; and he did so.

Q You said on your direct examination that you wanted to pin it down to see whether it was the absolute truth. That is right, is it? A That is correct.

Q Did you pin it down to see whether it was the absolute truth before you made any complaint? A That was taken up afterwards the following morning by Prosecutor Beekman and Prosecutor Stricker, who had the legal end of it to take care of. That wasn't up to me.

Q You say that you wanted to pin it down, the matter of taking this statement, to see whether it was the absolute truth. Did you believe at the time this statement was taken on Sunday that it was the absolute truth? A No. It looked fishy some parts of it to me. There were flaws into it.

Q And the statement that was taken on Monday looked fishy too, didn't it? A It still did. There was something wrong with it.

Q And it looks very fishy yet today, don't it? A Best proof of it now.

Q Now, Mr. David, you have said that Hayes was taken to Somerville at one o'clock or thereabouts on Monday?

A In the early afternoon.

Q And that Schneider was not taken there until nine o'clock

at night? A About nine.

Q And you gave as your reason that there was a big crowd in the back of the court house? A I said that that might have been one of the reasons. He was in charge of Detective Totten at that time, so that I can't answer as to that. I know that he was in the building somewhere in the neighborhood of nine o'clock, and hadn't been removed yet.

Q Do you see any difference between taking a man who is actually under a charge of murder out into a crowd at one o'clock in the afternoon, and merely taking a man who is a witness in a case at the same time? A I don't know that would make any difference to me if I happened to have the man.

Q Do you know why Schneider was held there, after he had made his statement charging Hayes? A No, not directly I don't know.

Q Didn't you say on your direct examination that the reason for keeping him there was to give him a chance to recant?

A That was my belief; yes, sir.

Q And yet even though you wanted to give him a chance to recant you took the man off to prison charging him with murder, not knowing whether Schneider was going to recant that afternoon or not, didn't you? A That was under the direction of Prosecutor Beekman.

Q The fact remains it was done, wasn't it? A It surely was.

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ADJOURNED UNTIL 2 p. m.

AFTERNOON SESSION 2 p. m.

- Q After you entered the Prosecutor's office on that Sunday afternoon October 8 did you leave it again that day, that is the building? A I did; yes, sir.
- Q What time? A I don't know exactly what time in the afternoon.
- Q You know as a matter of fact that Schneider was held in the Prosecutor's office all night, don't you? A Oh, yes.
- Q Do you know whether he was furnished with his supper or not? A He was furnished with food during the evening; yes, sir.
- Q You are sure of that? A Yes, sir. I sent out for it myself.
- Q Do you know whether Schneider was permitted to sleep any on Sunday night? A He was.
- Q When? A During the night he slept in the chair, I saw him several times, going back and forth between our office and the little room in the rear of the district court room, Spillman in the room with him, he was asleep in his chair, he slept for several hours.
- Q He slept for several hours? A In the chair; yes, sir.
- Q Don't you know as a matter of fact that as soon as he began to doze off, while sitting in the chair, he was awakened again and prodded with further questions all night long?

A I don't know anything about that. I am satisfied that that could not have been done, because of going back and forth at different times.

Q What occasion did you have to back and forth in the little room back of the district court, if he was asleep?

A To see if he was awake, and to have further talk with him, if he wanted to talk.

Q Hadn't he made you a sworn statement on Sunday afternoon, which was supposed to include the truth, the whole truth, and nothing but the truth? A Yes, sir.

Q Why was it necessary to go back to him in the middle of the night and the morning hours, to see whether he wanted to talk some more? A Because I told you before recess, I was satisfied some of it was fishy. The story didn't look altogether plausible to me and it was a chance of what time for him to recant. He was charging another man with murder.

Q Were you trying to get him to recant, or were you trying to get him to add something more to it to strengthen the story? A I merely wanted what he had as to the truth of it.

Q Did you make any further earnest effort to get him to recant the story? A Nothing more than to ask him if that could possibly be so, was it the truth and he would answer by saying yes.

Q And isn't it a fact, Detective David, that you were trying all the time to get him to say something more that would

strengthen and build up the affidavit which he had already made charging Hayes? A No, that was enough to send the young man to the electric chair, what we already had, if it was the truth.

Q Do you think it was? A Yes, sir.

Q You accepted the uncorroborated statement of Schneider as being the truth, and as being sufficient to send a man to the electric chair, did you? A It was corroborated to some extent by the other young man, Kaufman, if I remember his name being right, he was brought ⁱⁿ and he testified, or at least he made the statement to us that he was with these boys part of the time. It was the only other corroboration we could have, was between the three of them, they were the three together who followed Mr. Bahmer and his daughter that night, and he went so far as to say that he did go, and he stayed until somewhere in the neighborhood of eleven o'clock, and left up at the park gate and went home.

Q On Sunday, after this statement was made, you had in your possession the accusation against Hayes, didn't you?

A Yes, that accusation was there.

Q Now, I would like to know why, after you had the accusation against Hayes, did you find it necessary to go back and forth time after time during the night to talk more to Schneider? A So as to be sure as to whether he was telling the truth or not. We wanted to be absolutely sure.

Q How could you be absolutely sure, going to the same man

to find out whether he was telling the truth or not?

A Because he had lied to me before. The first statement that he made on September 24 when he told me of his movements, he lied. We had to confront him with Pearl Bahmer, and he recanted, after he was confronted. I knew then that he was a liar, and I wasn't taking everything for granted that he made into this statement.

Q And didn't you know, when he made this statement on Sunday afternoon, that he was a liar, and didn't you tell him that you knew he was? A I did not.

Q Didn't you know at that time, from what you had gotten from Kaufman and the Bahmer girl that what he was saying in that statement was not true? A Not altogether. I said that the story seemed a little fishy to me.

Q Not altogether, but you knew that a large part of that statement that was being made to you on Sunday afternoon wasn't true, didn't you? A I can't say how much. There were some parts of it that didn't seem right to me.

Q You knew the accusation being made against Hayes wasn't true, didn't you? A I was satisfied, after he confronted Schneider, that Hayes was telling the truth.

Q That Hayes was telling the truth and that Schneider wasn't telling the truth, is that right? A It seems so to me.

Q Then why did you go after Schneider during that night time and again the next day and get a further statement from Schneider further charging Hayes with this murder?

A Because he offered to hand it out. What else could we do

but accept it? That was made, of course, and taken in the presence of Prosecutor Beekman and others, don't you know. The legal end of it. Part of it was taken before the assistant Prosecutor on Sunday afternoon. He was present at part of that, as I remember now.

Q He was offering to hand out this incriminating evidence against himself, wasn't he? A Yes, he was, and he did.

Q The presence of you and Detective Totten and two state police and Prosecutor Beekman and Prosecutor Toolan?

A Yes.

Q And others who were around there had no effect upon the making of that statement, did it? A To make it just so careful, I had him, when he signed his name finally, or before he signed his name finally to the affidavit I had him examine each page of his statement and made him sign, or I asked him to sign his name to the bottom of each one of them, and he did so, from page to page, to carry him along.

Q Admitting now that you knew or believed that that story was not true on Sunday, and that you were satisfied, after Hayes came in the room, that Hayes was telling the truth and that Schneider was not telling the truth, why did you keep after Schneider to make further statements? A I said that he hadn't told the whole truth, hadn't told altogether the truth. I was satisfied of that in my own mind.

Q What was your purpose there, were you trying to find who

committed this murder, or were you trying to involve Schneider in a perjury charge which we are trying today?

A A perjury charge wasn't considered at that time at all. That developed afterwards.

Q Then your main object was to find out if you could, in the course of your investigation, whether this charge against Hayes was true, isn't that so? A To get an absolutely true story; yes, sir.

Q And you were satisfied right then, that Sunday afternoon, that the statement made by Schneider was not true?

A I said that a part of it I was satisfied in my own mind was fishy.

Q The part that charged Hayes with murder, was fishy, wasn't it? A It seemed so to me; yes, sir.

Q And yet you followed that up during Sunday night, in an effort to question more, didn't you? A He had already told the story and he kept on repeating it the same thing.

Q Even when he was in there asleep in the dead of the night, you thought that was a good time to get him to repeat it, didn't you? A He wasn't awakened at all to do any repeating. He wasn't disturbed while he slept.

Q Wasn't he taken in the room for the purpose of letting him have a few hours quiet sleep? A No. He was taken into that room for the purpose of being away from Hayes, and Hayes had been put into the inner room of our office at that time, and he had been shifted to the little room.

Q There had been a great deal of hard feeling exhibited be-

between these two boys when they were confronted, hadn't there? A Just for the moment, yes, after this statement was read to Hayes and he was asked what he thought about it, naturally enough that there should, one man accusing the other of murder. Why not?

Q Considerable shouting and swearing? A There was some swearing; yes, sir; and that swearing was between Schneider and Hayes.

Q Nobody else did any swearing at Schneider? A It wasn't necessary.

Q Now, sir, coming down to Monday, do you know whether Schneider was furnished with any breakfast or not?

A He was. I sent out for it. He had his hot coffee and had what we had. He had sandwiches and coffee and that satisfied us and satisfied him, because the condition of his finger, he didn't care to eat, he didn't want to eat in the morning.

Q What was the condition of his finger? A As he had told me he was installing some wire arrangements for wireless telegraph, or something of that sort, and that he had got the wire caught into his finger, and it had swollen up, and he thought it had developed blood poison.

Q Did you see the finger there? A Yes, sir. Helped to dress it.

Q It was in bad shape, wasn't it? A Well, the finger was swollen and had turned a little black on the upper end of it.

Q Did you think he was exaggerating his statement as to the pain it was causing him? A Well, I didn't know. It is just according. Some fellows can stand more pain than the others with their fingers. I had that opportunity to take him or send him over to Dr. Smith to have it dressed, and he said he didn't want it dressed. I asked him what had been done for it. His mother had put flax seed poultice onto it. Mr. Totten and I went out, walked down the street to get some cigars and while in the drug store we got him a mustard flaxseed and brought it up here and made warm water upstairs and made poultices for it, and he was poulticed three times during that night, and twice on Monday.

Q Well, if he was poulticed three times during that night he didn't have very many hours sleep, did he? A Well, you could poultice him three times in fifteen minutes.

Q Was it done three times in fifteen minutes? A No, it was not; it was done during the night.

Q Now, sir. on Monday, October 9 how did he come to make this last statement on that day? A He was talked to in the morning by Prosecutor Stricker and several others. I was in and out of the office. I was back forth, and busy. I talked to him again about it. And the matter, I believe, was handled particularly by, I can't say that positively, but I think by prosecutor Beekman, and they went on with the case, he was questioned again, or asked again to tell his story, and he started off in the same strain and went

on and finally made that statement. Now, all the particulars of that I don't know, because I was in and out, as I say, of the office, and if I remember right I went and got into a chair and got a couple hours sleep myself.

Q What time of day was the statement made on Monday, do you know?

A It was in the morning, some time in the neighborhood of ten o'clock, I think it was finished ten or half past ten.

Q You were in the room at that time? A Yes.

Q Your name is attached to that statement, isn't it?

A Yes, sir.

Q And these two or three State troopers were in there?

A I think so.

Q Detective Totten? A Yes.

Q The Prosecutor? A I think so.

Q Prosecutor Beekman and Prosecutor Stricker? A I think so. I won't say positively as to that.

Q Any others? A I don't know. There were several into the room. Part of the time I was outside attending to other office work.

Q Is it the ordinary thing in the course of your official duty to take a sworn statement from a man when, in making the verbal statement to you, or another, you make up your mind you don't believe it, as you did in this case?

A Of course, we take a statement. We take a statement in any case of that kind, that comes along, and take it for what it is worth always. That is the instructions of the

Prosecutor, and we do that.

Q Is it customary with you to have a sworn statement in the case of a man who wants to make a statement, or who does make a statement, when you are satisfied at the very time that he is telling you about it, that it is not true, the accusation is not true? A Well, that is a question. There are no two cases alike, no matter what it is in criminal matters, that are worked the same, or acted the same, and it is just a question of what the situation is when we are ready to take those statements, and that is the reason that we have the statements taken down in stenographic form and taken care of by Mr. Silzer, who is a Notary Public.

Q Did you take affidavit statements from Kaufman and Hayes at the same time? A I don't remember. I believe Hayes's statement,--I won't say for sure,--I think Hayes's statement was taken in affidavit form.

Q And he was a defendant being charged, and his statement was taken in affidavit form, was it? A That I say, I would not say for sure. I think so, but that is not positive.

Q Schneider had denied to you, had he not, that he was on the Phillips farm at all on the night in question, prior to this Sunday? A He did on the 24th of September; yes, sir.

Q And on every time that you saw him after that, up to October 8th, he denied it, did he not? A I didn't

see him between that time and October 8, until October 8.

Q Didn't you go to his house and bring him down from there on two or three different occasions in a taxi-cab before October 8? A I have never been to his house. Absolutely never been to his home.

Q Not in his house, but to his home, or in front of his home? A No, sir; to the front of his home. Never passed his house in my life, either in a machine or on foot. I know where the house is, I have seen it from other streets, and I have never passed the house.

Q How could you see his house from other streets unless you went up there for that purpose, didn't you? A Why, no. Going through the streets, I really didn't know where he lived until it was pointed out to me one day, and I think that was by another fellow who lived in the block below passing pointed out the house as in the block between that street and the street that faces on Bucleuch Park.

Q Detective David, you were very much interested at that particular time in fastening this crime on somebody, weren't you? A I don't know how to answer that. We wanted very much to get the murderer, of course.

Q You wanted very much to get the murderer and you accepted the uncorroborated statement of Schneider at the same time admitting now, that you didn't believe Schneider when he made the accusation against Hayes, is that correct?

A Schneider's statement was partly corroborated, as I told

you, by Kaufman. Further than that, as I told you before, we took the statement for what it was worth.

Q Yes, but you had used the expression "I thought it was fishy"? A A part of it I said was fishy; I said that a dozen times.

Q Yes, you have a dozen times. But you didn't believe the accusation made against Hayes at the time Schneider made the affidavit, did you? A It didn't seem to be altogether possible to me.

Q Well, now-- A And as I say, because of different fishy parts of it, different parts of the story that he told.

Q You never have believed it, have you? A The best proof of it is now, as far as my conviction is concerned the matter.

Q Three days after this statement was made and accepted as the truth, and the arrest made on the strength of it, Hayes was released even without a Grand Jury investigation, wasn't he? A I believe so. I don't know.

Q You do know, don't you? A Well, from hearsay. I know he came back home. The newspaper had it that there was some--

Q You were up at the hearing in Somerville, weren't you?

A I was not. I testified this morning, I was not at that hearing, and I was not there.

Q Detective David, after Hayes had been released on this charge, and after Schneider had been committed to jail,

charged with perjury in another serious offense, you went over to the jail again in an effort to get this statement from him, didn't you? A Not in this case; no, sir. I went over to get a statement from him in reference to the Bahmer case, yes, the other serious matter, but this perjury case wasn't talked about nor borne on at all.

Q He was in jail charged with perjury, and charged not only with perjury but another serious offense, and you went over to the jail, after having disregarded these first affidavits, knowing they were not true, you went over there to get further statements from him, didn't you? A Not in this case.

Q On the other case then? A I went over to ask him a few questions.

Q What for? In an effort to get him in further trouble?

A Not in this case.

Q In any case? A I wanted some particulars, some more facts into some of his movements.

Q What did you want particulars and facts from a man whom you believed to be a liar? A I don't remember just what the question was that I asked him.

Q Well, you have testified here in court that you knew he lied, and that you believed he was a liar. What did you go over to the jail for after he was charged as a defendant, and try to get further statements from him for?

A I don't remember just what it was that I asked him. I was sent there by the Prosecutor to get some further in-

formation from him.

Q On what points? A I forget them. I don't remember just what they were. I told you there was nothing out of the way about it, and I think about an hour or two hours afterward you jacked me up on the street for going to talk to your client.

Q I certainly did. A Surely.

MR. SEDAM: I think that is all.

REDIRECT EXAMINATION BY MR. TOOLAN:

Q Mr. David, can you tell us approximately the volume of statements that have been taken by the Prosecutor's office in this Hall-Mills case and reduced to writing, the number of sheets of this size, approximately, what would you estimate about. A Oh, I don't know. They would run into the hundreds.

Q About how many hundreds? A Well, I can safely say, well, I judge seven hundred and fifty to eight hundred sheets.

Q And all those statements were reduced to writing?

A Every one of them.

MR. TOOLAN: That is all.

G E O R G E D. T O T T E N, a witness produced on behalf of the state, being duly sworn according to law, on his oath, saith:

DIRECT EXAMINATION BY MR. TOOLAN:

- Q Mr. Totten, you are a Detective connected with the Prosecutor's office in Somerset County? A Yes, sir.
- Q You were in the month of September and October of this year? A Yes, sir.
- Q Did you ever have occasion to see or to speak to Raymond Schneider during the month of September? A Yes, sir.
- Q When and where? A In the Prosecutor's office in this city.
- Q Was that the occasion on September 24 when Mr. David had him upstairs and he made a statement? A Yes, sir.
- Q Was that statement reduced to writing at that time?
- A It was.
- Q Was that statement checked up with other witnesses who were mentioned in that statement, that is with Pearl Bahmer particularly? A Yes, sir.
- Q Did Pearl Bahmer make a statement similar to the Schneider statement, or different? A She made a different statement to Schneider's statement.
- Q State whether or not Schneider was confronted with Pearl Bahmer. A He was.
- Q What did he do in reference to the statement that he had made? A He then recanted and admitted that Pearl

Bahmer was telling the truth.

Q When did you next see Raymond Schneider? A On the afternoon of October 8.

Q That was Sunday afternoon? A Sunday afternoon; yes, sir.

Q Mr. Totten, state whether or not you were with Mr. David every day between the 24th of September and the 8th of October. A Practically every day; yes, sir.

Q And during long hours on every one of those days?

A Yes, sir.

Q And if Mr. David had seen Mr. Schneider, or if he had been in the Prosecutor's office at any time during that time would you have seen him or heard about it?

MR. SEDAM: I object to that.

THE COURT: Objection sustained.

Q Did you ever see him again in the prosecutor's office in this county between the 24th of September and the 8th of October? A In between those dates.

Q The 8th of October was Sunday, is that right? A Yes, sir.

Q Were you present when Schneider was brought into the office?

A No, sir.

Q What time did you arrive in the Prosecutor's office here?

A I think I arrived there about two thirty in the afternoon.

Q Who was there at that time? A Mr. Schneider, Mr. Bahmer, state troopers.

Q Mr. Bahmer did you say? A Mr. David, I should have said, the state troopers were there when I came in from

luncheon.

Q Will you please describe the sitting in the room, of what was going on when you walked in, let us have your own description of it. A When I walked in Mr. Schneider was sitting one side of the table and Mr. David was on another, one of the State troopers sat about three feet from Mr. Schneider, others were about the room, I can't give the exact position.

Q Was Mr. Silzer there at that time when you came?

A He was not; no, sir.

Q What was happening at that time? A Mr. Schneider was relating the circumstances that he alleged occurred on the night of the 14th of September, referring to Hayes.

Q Did that statement involve Hayes? A It did.

Q Was that statement exacted from him under any pressure, or threat, or promise, or anything else? A None whatever while I was present.

Q Will you please describe Schneider's tone and manner, and state whether or not he seemed to have possession and control of himself when he was making that statement?

A He seemed to have all his faculties. I can't say that he had lost control of himself. He was making a frank open and above board statement about the movements of he and Hayes and another young man the night of the 14th. Then I believed you were telephoned for, Mr. Silzer was telephoned for, and Mr. Beekman was telephoned for. After they arrived Schneider's statement was taken stenographically

and reduced to a typewritten form. Later on in the evening it was read over to him, he read it and signed it.

Q Was the statement that he made in the presence of Mr. Silzer, and which was taken down stenographically and later put up into typewritten form, the same statement in substance that he had made to you and Detective David and the State troopers prior to Mr. Silzer's coming there?

A Yes, sir.

Q Will you state whether or not Schneider was called upon, even after signing and swearing to that statement, called upon to say whether it was the truth or not? A He was.

Q And whether or not efforts were made by yourself and other members of the Prosecutor's staff to have him add or change that statement in order to give us the truth? A He was given an opportunity on a number of occasions afterwards, and during the evening and night, to correct his statement, if he had made any omissions, or stated any inaccuracies in the first statement. He claimed that he had not, that he had told the entire truth.

Q Were you present when Gilbert Hayes was brought into the office? A Yes, sir.

Q Were you present when Schneider's statement was read to Hayes? A Yes, sir.

Q Were you present when Schneider and Hayes were confronted one with the other? A I was.

Q Will you please tell us what happened there? A Mr. Hayes denied the accusation.

Q What was said and done? What did Hayes say?

A Hayes denied the accusations.

Q Give us his language, what did he say? A After the statement was read to Mr. Hayes he called Schneider a D-- liar. He faced Schneider and Schneider's attitude was such that he could not look Hayes clear in the eyes, and they had some wordy conversation in that respect regarding the maliciousness of the statement made against Hayes.

Q State whether or not an effort was made subsequent to that to have Schneider change or modify his statement in any way. A He was, during the evening after that occasion given a number of opportunities to make any further additions or subtractions from the statement that he had made on the Sunday afternoon of the 8th. He said that the statement that he made was correct, and he had no changes to make.

Q Were you present when the statement was made on the morning of the 9th? A I believe I was; yes, sir.

Q Do you know what time Schneider was taken over to the Somerset County jail? A Monday evening, I think we left here around nine thirty to ten o'clock. I am not positive.

Q Were you with him? A I was.

Q Do you know why Schneider was kept here for seven or eight hours after Hayes had been taken over to the Somerset County jail? A Yes, I believe I do. It was for the purpose of giving him an opportunity to recant or change and change either one of the two statements he had pre-

viously made, the one on the 8th and the one on the 9th.

Q Mr. Totten, did you personally speak to Schneideer about the time when Hayes was being taken out of the building here to go to Somerville? A Yes.

Q Will you please tell us what the substance of that conversation was with Schneider at that time? A I told Schneider then that he had made a very serious charge against this young man, that if he had any changes to make, to do it now, before the young man was taken away from the court house, because he was practically charging this man, or sending this man to the electric chair, and I beseeched him, that if his statement was not true, to tell the whole truth, before the man was taken away from the court house, and he still insisted that he had told the truth in the two previous statements.

BY THE COURT:

Q Was Hayes present when you made that appeal to him?

A No, sir. He still insisted that he had told the truth in those statements.

BY MR. TOOLAN:

Q Did he continue to insist up until the time he was taken over to the Somerset County jail? A He did; yes, sir.

CROSS-EXAMINATION BY MR. SEDAM:

Q Detective Totten, do you say that you came to New Brunswick on October 8 about two thirty in the afternoon?

A Second trip into New Brunswick.

- Q Had you been here before that day? A I was here in the morning.
- Q Had you been in the Prosecutor's office while Schneider was there, before two thirty in the afternoon? A Oh, yes. While Schneider was in the office?
- Q Yes, sir. A He was in the office in the afternoon when I arrived.
- Q In other words were you present when Schneider was brought in there? A No, sir.
- Q So that you don't know what he said in the first part of his oral statement, do you, before you got there?
- A I do not.
- Q And therefore you do not know whether what he put down in the written statement later on was the same as he said in the oral statement before you got there, do you? A I don't know what was said up until the time of my arrival.
- Q You have already testified what he said in the written statement was the same as he had said in the oral statement; you didn't mean that, did you? A The statement was taken before Mr. Silzer.
- Q What he said in the written statement, taken before Mr. Silzer, was the same as he said in his oral statement, you don't know that to be a fact? A I have testified that the statement we took, that was taken before Mr. Silzer, was the same as the conversation that was being related when I arrived. What occurred previous to that I have no knowledge.

THE COURT: These statements have not been read and it may conduce to a more intelligent following of the testimony upon the part of the jury, if you would at least agree upon the difference between the statement of October 8 and the statement of October 9.

MR. SEDAM: Of course, I have not seen them either.

MR. TOOLAN: I will read them.

THE COURT: Of course, it is agreed that that first statement of September 24 need not be read openly. But I think the jury should know now the two sworn statements, the one of Sunday afternoon, and the one of Monday morning following.

MR. TOOLAN: The statement of the 24th we will allow to go to the jury.

- THE COURT: Yes. For the reason that has been suggested. As long as that is agreed to by Mr. Sedam.

MR. SEDAM: That is agreed to.

(Statement marked exhibit-P-2 read to the jury by Mr. Toolan.)

THE COURT: Can it be substantially agreed what was the reason of another statement after that? Wherein do the statements differ?

BY THE COURT:

Q

Do you know, officer? There was a statement made on

Sunday afternoon. Why was there another statement made, if you know, on Monday morning following? A It was made at the request of the two Prosecutor's to give this young man an opportunity to make any corrections, additions, or to correct any inaccuracies that might have occurred in this first statement.

THE COURT: I think you had better read it, so the jury may see what differences, if any, were made. This is the statement upon which the indictment is based.

MR. TOOLAN: Yes, this is the statement of October 9, the following day, Monday.

(Statement marked Exhibit-P-1 read to the jury by Mr. Toolan.)

BY THE COURT:

Q Do you know, officer, who put that question? A Mr. Beekman.

Q Was Mr. Beekman present at the statement made on Sunday afternoon? A Yes, sir.

CROSS-EXAMINATION BY MR. SEDAM:

Q Detective Totten, this last statement that has just been read here is, of course, Schneider's own language, isn't it? A He claimed it is, yes. Which do you mean, that last part? After he signed it?

Q These words that have been read to the jury here flowed

out of his mouth like milk and honey, didn't they?

A That is the statement that he signed and was taken there under examination by Prosecutor Beekman.

Q Some of these rather large and unusual words that are used in here are Schneider's language, that is right?

A They may have been injected by the Prosecutor.

Q They may have been injected? A Yes.

Q Quite a good many of these words were injected by the Prosecutor, weren't they? A Perhaps.

Q Pretty sure they were, aren't you? A Perhaps they were.

Q Now, Mr. Totten, after this long statement made on Sunday October 8, did you take any stock in this? A It was a very unusual statement coming, as it did, and unexpectedly. That is why the young man had a lengthy opportunity to retract, to change, or correct anything that may have been inaccurate.

Q Did you or Detective David or anybody else in your presence, when this unusual and unexpected statement issued from his lips, remind him of the fact that he was making a very unusual kind of statement, and that he should be very guarded and very careful in what he was saying there?

A He was cautioned and reminded.

Q Who by? A I think Mr. David and myself also.

Q Both of you found it necessary to caution him, is that right? A Cautioned to tell the truth and nothing but the truth.

Q All the time that he was speaking you felt quite confident

in your own mind that he wasn't telling you the truth, didn't you? A No, I won't say that.

Q Well, when the statement was all finished and was being sworn to, or had been sworn to, you didn't believe it, did you? A We still-- I was still of the opinion that it was a very unusual statement.

Q That is putting it a little bit strange. I say did you believe it or didn't you believe it? A Some parts of it I believed, yes.

Q You believed the part that took him off George Street and all around Bucleuch Park, but you didn't believe the charge against Hayes, did you? A I believed everything except the actual circumstances of firing the shot on the DeRussey property, or on the Phillips farm by the so called crab apple tree. The circumstances that occurred there with reference to that shooting were very unusual.

Q Did you believe they were on the Phillips farm at all that night? A There had been previous contradictions of their being on the Phillips farm, in the statement that was taken on the 24th of September.

Q Yes. A And I didn't think it was hardly probable that everything in that statement was the truth.

Q Particularly that part which charged Hayes with the commission of this crime, you didn't think it was true, did you? A No, sir.

Q And you and Detective David were there together both times and working on this case, and neither one of you two main

detectives believed it was true, did you? A I didn't believe it was all true. I am not answering for Mr. David. I am answering for myself.

Q I am asking you whether Mr. David did not express, in your presence, right then and there, that he didn't believe it was true?

A We all expressed surprise at the statement of Schneider charging Hayes with the commission of the crime.

Q So much surprised that you didn't believe it--that neither you nor David neither believed it was true, did you?

A I don't think any of us believed it was true.

Q Then, sir, if you didn't believe it was true, why did you think it necessary to put it in affidavit form, for the purpose of laying the basis and foundation for the accusation of murder against an innocent boy? A Oh, no. We didn't think that was possible. After the first statement was taken we gave this boy every opportunity to recant, that is the reason he was left here until Monday afternoon.

Q That is not my question.

THE COURT: He has a right to explain.

MR. SEDAM: That is not responsive.

THE COURT: I think it is. He has a right to explain such a question that has been put to him. Go on.

A That is the reason that he was left here until Monday evening. In the meantime during Monday this boy stuck to

it that it was the truth, and it was during the day on Monday that this second affidavit was taken, and we said-- we told him we wanted now a final affidavit, or a final statement, giving you sufficient opportunity to correct the first statement made, he stuck to it that it was the truth, and he only materially changed the second one from the first--there is very little difference in it.

Q Then why, Detective Totten, if Schneider stuck to his first statement as the truth, why did you urge upon him, why did you ask him if he wanted to change that statement?

A Because we wanted to see if he would make any inaccuracies into another statement.

Q What were you trying to do, trip up the complaining witness in the case? A Well, the complaining witness? We are not trying to trip him up. We wanted to get the whole truth from him.

Q You wanted to do the same thing as Detective David, pin it down, and see if it was the absolute truth, didn't you?

A We wanted nothing but the truth. We endeavored to get it.

Q And you were satisfied that there were very many untruthful things in the first statement, and yet on the strength of that you went ahead and had him make another one, didn't you? A Yes, we had him make another one, thinking perhaps he would make some slip into it, and as I said before, all we wanted him to do was to stick to the truth, if it was the truth, and we did not want it if it was not the truth.

Q Well, was your investigation on those days leading toward

the discovery of who had perpetrated this crime of murder, or were you trying to get Raymond Schneider into a perjury charge, which were you trying to do?

MR. TOOLAN: I object.

THE COURT: Objection sustained.

Q Was not the reason for making the second statement on Monday so that the Prosecutor might be there and put these questions to him and get in all this legal verbiage so as to fortify the affidavit? A The Prosecutor was there and took the statement.

Q On Monday? A Yes, sir.

Q And I say wasn't the reason for making the statement over again on Monday because the Prosecutor was there and so that he could surround it with a lot of this legal verbiage we find here? A He was there on Sunday when the statement was taken.

Q He was there on Sunday too? A Yes. Mr. Toolan and Mr. Beekman.

Q You contend, as I do, no doubt that there is not any material change in the second statement from the first, is there?

A Very little.

Q Can you give us a reason then, if there was no change in his story on Monday from Sunday, why was it necessary to get him to make another affidavit on the morning of October 9, in the presence of the two Prosecutors and the State troopers and you and Mr. David? A I am not attempting to answer for the notions of the Prosecutors.

they were there and had that second statement taken.

Q It would be a hard thing for you to do, wouldn't it?

(No answer)

Q Mr. Totten, who suggested to Schneider that it would be a good thing for him to correct any omissions made in his former statement, or any inaccuracies in his former statement? A I won't be positive whether it was myself, or Mr. Beekman, or someone else who was present.

Q Well, he was there in the capacity of a witness presumably to help unravel this charge. Why did you have thought there were any inaccuracies or any omissions from the statement which he declared to be the whole truth? A Because if there was any slim possibility that he had not told the whole truth, we were anxious to get it.

Q Did you think there was only a slim possibility that he hadn't told you the whole truth? A Well, there might be some possibility that the whole truth was not contained in the first affidavit.

Q Did you get any more in your second affidavit than you got in your first in order to make you think it was the whole truth? A Very little.

Q And yet on the strength of that you believed and knew to be wrong, you caused --A.I believed. I did not know it was wrong. I believed it was wrong.

Q Which you believed to be wrong, you committed the arrest of Hayes to be caused, did you not? A I did not. It was done by order of the Prosecutors.

- Q Did you make known to the Prosecutor, your superior officer, that you didn't believe, or had reason to believe, that the statement made by Schneider was not correct? A I don't think I expressed myself to him, no.
- Q You don't think you informed the Prosecutor? A I don't think I expressed myself that way to him; no, sir.
- Q Did you hear Detective David, in your presence, express himself to the Prosecutor that he didn't believe the story, that he thought it was very fishy? A No, sir.
- Q Nobody informed the Prosecutor to that effect, so far as you know? A The Prosecutor was there and he could have judged for himself.
- Q You have said that Hayes was taken to Somerville about one o'clock on Monday, is that right? A I don't think I said that.
- Q Am I correct in saying that, then? A About that time.
- Q Can you tell us why, Schneider, the complaining witness in the case, was held here at the court house until, as you have said, about half past nine or ten o'clock at night?
- A He was held here by order of the Prosecutors.
- Q Everything was done by order of the Prosecutor, wasn't it?
- A While they were here in the building, yes.
- Q Did the Prosecutor stay here after Hayes was taken away, do you know? A Oh, yes.
- Q Consult further with Schneider in your presence? A Yes, sir.
- Q Did you and Mr. David consult further with Schneider that

afternoon? A We did.

Q What did you try to do, get another statement from him?

A We asked him if he was satisfied now to have Hayes taken to Somerville under a charge of murder, and I told him, I said, you have an opportunity to recant and correct this statement if it is not true.

Q Well, suppose he had answered you, Mr. Totten, that he wasn't satisfied to have Hayes taken to Somerville on a charge of murder, he would have been taken there on this second affidavit anyway, wouldn't he? A Not if he had recanted that statement, no, I don't think so.

Q If Schneider, having sworn to these two affidavits on Sunday and Monday successively, had told you that afternoon, don't take Hayes to Somerville on this charge of murder, he would not have been taken there, would he? A Not if he had recanted and said that he was telling a lie, he would not have been taken there, undoubtedly.

Q You were willing to accept Schneider's uncorroborated statement on this charge, weren't you, despite the fact that you knew a large part of it wasn't true, and believed that it wasn't true, that is right, isn't it? A No, it is not right. I didn't believe a large part of it was true. I thought some parts of his statement were correct.

Q And was a large part of it untrue? A There was a large part of it untrue, I will admit that.

Q Despite the fact that you believed a large part of it was untrue, you were willing to permit the arrest of Hayes on

an affidavit which you knew a large part was untrue?

MR. TOOLAN: I object. In the first place, notwithstanding what the charge was made, I submit it was sufficient foundation for them to do just exactly what they did.

MR. SEDAM: I have a right to show what did take place at the time he did make it.

THE COURT: I cannot understand what your offer is, from your explanation.

MR. SEDAM: You cannot understand my explanation?

THE COURT: No.

MR. SEDAM: I put the question--

THE COURT: Suppose you do know his duty, what difference does that make in the determination of the guilt or the innocence of this man under this indictment?

MR. SEDAM: The whole thing--

THE COURT: Suppose this man made a false affidavit in a legal proceedings, or something that would lead up to an indictment, or could result in an indictment, and yet this detective believed it was entirely untrue, would that relieve him from the crime of perjury?

MR. SEDAM: No, sir; but it goes to the matter of the procuring of the statements.

THE COURT: Oh, well, you can examine him about

the procuring of the statements, but this is hardly a question that is leading up to that, as I see it. I will allow this question, but it seems to me there has been a great many questions along this particular line, that are hardly pertinent to the real issue involved. Do not let us get away from the legal elements that are necessary in order to constitute this offence.

(Question repeated by stenographer.)

THE COURT: How could he stop the arrest of Hayes? I do not think it is a fair question. Objection sustained. You may reframe it to get the same thing which I think is in your mind. It implies, that question in its form, as you will readily see, that it was up to this man whether or not Schneider should be arrested on the strength of this statement.

MR. SEDAM: I am thinking of the cases in the state which permit, as I understand it, going into all of the circumstances surrounding the making of the affidavit, all of the circumstances.

THE COURT: I know, but your explanation is not pertinent to the question here. You are

asking this man if he was willing to permit this man to be arrested. What did he have to say whether the man should be arrested or not, under the circumstances?

Q The fact is, Mr. Totten, that despite the fact that you did not believe the main affidavit on which this perjury charge was based, or did not believe that part of it which charged Hayes with crime, you did nothing to keep Hayes from being charged and arrested for this offence?

MR. TOOLAN: I object.

THE COURT: You do not have to argue this, Mr. Toolan. Objection sustained.

Q You were one of the investigators of this charge at the time, were you not? A Yes, sir.

Q As such investigator you have testified here that you did not believe the statement made by Schneider charging Hayes with the offence, is that correct?

MR. TOOLAN: I object.

THE COURT: He has not made any such statement at all in any of his answers.

Q Did you believe that part of the statement which charged Hayes with the offence? A

MR. TOOLAN: I object.

THE COURT: I will allow that.

MR. TOOLAN: Representing the State in this case, I have declined to make objections to a great many things that I think were abso-

lutely irrelevant to the issue we are trying here today. It seems, at the early part of the case, the Prosecutor's office and the method of procuring this affidavit were all on trial, and I put aside what I thought were the legal principles that should have guided me in endeavoring to hold this case within the limits that I thought it should have been contained in. I think now we have gone entirely afield and I do not think it makes any difference whether Detective Totten believed that statement, or whether he did not, what his personal opinion was, or what it was not. The thing we are trying here today, as I see it, is whether or not Raymond Schneider signed this affidavit, whether he was in possession of his faculties when he did it, and if he was, and he signed that affidavit, and that affidavit is untrue, he is guilty of the charge in this indictment. I think sufficient latitude has been shown now and the issue ought from now on to be confined to that matter.

THE COURT: The Court does not feel that any undue latitude has been allowed. A man cannot be guilty of perjury unless that

perjury is wilful, and that involves the right of the defendant to show, if he can, that the affidavit made was not wilfully made, and in order to determine whether or not it was wilfully made, the full circumstances that brought about the making of the affidavit are entirely relevant to the issue, and everybody who participated in any way in the getting of that affidavit, the preparation of that affidavit, may be probed to any reasonable limit, in order to determine just how that affidavit was obtained. The suggestion contained in this question that one of the participants, an official who was there at the time of the making of the affidavit was interested in securing evidence as to who committed a certain crime, that whether or not he believed an affidavit, which really through coercion was made, is entirely pertinent.

MR. TOOLAN: What he believed does not affect the state of mind of Schneider, it does not assist us in any way.

THE COURT: I know, but it may assist the jury in determining whether or not this was done wilfully. For instance, the court would hold this, that even though an af-

fidavit was made that was entirely untrue, it was engaged officially in the getting of that affidavit, knew at the time that it was untrue, it is a very very pregnant fact to go before the jury in determining whether or not, under the elements that constitute perjury, the crime was actually committed. I am going to allow this question.

MR. TOOLAN: Wilful perjury, I believe, refers to the state of mind of the man who makes the affidavit, does it not? I do not see how this question as to whether or not the witness believed that to be true, can in any manner affect the state of mind of Schneider. If Schneider was in possession of his faculties on this day and at that time knew that what he was stating in that affidavit was not true, and yet stated it, I think the word "Wilful", and the intent and meaning of that refers to his state of mind and his condition of mind in making that affidavit, whether it was wilfully and deliberately made. Certainly the state of mind of the man who took the statement cannot relieve him.

THE COURT: Yes, but Mr. Toolan, you don't look

as far, possibly, as I do. I cannot compel the defence to tell me what their defence is going to be. It is your case. Suppose it is claimed it was obtained through coercion, certainly it is a very very important thing to know whether what was obtained was known to be false upon the part of those who obtained it.

MR. TOOLAN: As I see it, their knowledge does not affect the charge in this indictment in the least. If their defence is that this was obtained by force, intimidation, and threats, I think that anything directed to that may be proper; if it was a free act, it certainly would not be wilful and deliberate. It would have to be the free act, as the result of the workings of his own mind. But what the witness believed, unless it is in some way designed to connect up and show that notwithstanding the belief, he endeavored to force this man to sign it; but, so far, there has not been a word of force in the case.

THE COURT: I do not know what will be in the case before it is finished.

MR. TOOLAN: It seems to me if they want to prove that they ought to make these people their

own witnesses.

THE COURT: I know, but this man has gone on the stand and says this was a voluntary statement. The defence has a right to probe to the limit whether or not that was a voluntary statement, and in that connection, according to the Court's comprehension of the thing, and of the law controlling it, this question is a proper question. The only objection I could see to this is that it has been covered over and over again by the questions that have been, put, Mr. Sedam, and there has to be a limit to that.

MR. SEDAM: I will stop after this question.

THE COURT: Go on.

(Question repeated by stenographer.)

A It left a doubt in my mind.

Q Mr. Totten, have you formed any opinion as to the mentality of this defendant?

MR. TOOLAN: I object.

THE COURT: Are you interposing the plea of insanity?

MR. SEDAM: No, sir.

THE COURT: I did not think you were, because it must be especially pleaded.

MR. SEDAM: No, sir; I am not. Just whether he

is strong or not.

MR. TOOLAN: I object.

THE COURT: It was allowed to be asked Detective David. I will allow it. You may ask him that. Of course, his mere opinion amounts to nothing.

A I have formed no opinion.

THE COURT: What probative force is that? It is for the jury to determine those things, Mr. Sedam, and nobody knows it better than you do.

MR. SEDAM: If I can draw out of a witness for the state that he has formed an opinion that the boy is not strong mentally,-- Mr. David has testified to that fact already. He does not think he is.

THE COURT: Yes, but because that was allowed without objection does not say it is right. You know, as a lawyer, it is for the jury to determine those things, and they determine it by the actions, conduct, and the expressions of the witness. I think the mere of a witness on the stand is of no consequence whatever from a probative standpoint.

MR. SEDAM: A detective probing into that has none--

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THE COURT: Absolutely no probative force, from an evidential standpoint. He can tell the jury no more than the barest opinion, unless he gives his specific reasons upon which he bases his conclusion; a doctor is in a different position from a detective.

MR. SEDAM: The witness has answered the question he has formed no opinion, so I have not done any injury either to the state or the defendant, either one. That is all.

MR. TOOLAN: That is all.

F R A N K M A G G I O R E, a witness produced on behalf
of the State, being duly sworn according
to law, on his oath, saith:

DIRECT EXAMINATION BY MR. TOOLAN:

Q What is your name? A Frank Maggioro.

Q Are you a stenographer? A Yes, sir.

Q State whether or not you were the stenographer who took
down stenographic notes of a hearing held on the 12th of
October 1922 before Justice of the Peace Sutphen at
Somerville, where Clifford Hayes was arraigned for a
hearing. A I was.

Q Did you later transcribe those stenographic notes and
reduce it to typewritten form? A I did.

Q Is this a transcript of the minutes made by you of your
notes? A It is.

Q Is that a true transcript of what transpired there at that
hearing, showing the questions asked and the answers made
by the witnesses? A Yes, sir.

MR. TOOLAN: I want to offer this transcript
and read it into the record.

MR. SEDAM: Let me see it. I do not think there
is any objection at all.

MR. TOOLAN: Any objection?

MR. SEDAM: No.

MR. TOOLAN: I offer that in evidence.

THE COURT: It is admitted.

(Transcript entered in evidence and marked Exhibit-P-4.)

MR. TOOLAN: Can it be agreed as to its substance in order to save time? I can go through the substantial part of it.

THE COURT: The point is that under this affidavit which is laid in the indictment, Schneider charged Hayes with having committed murder in that he killed Mrs. Mills and Dr. Hall, and this transcript contains his sworn testimony before Justice of the Peace Sutphen in which Schneider says that when he made the affidavit charging Hayes with this crime that he lied, is that right?

MR. TOOLAN: Yes, that is true.

THE COURT: Then, why take up the time?

MR. TOOLAN: I might state particularly that the specific paragraph contained in the affidavit of October 9, which is quoted in the indictment and made the basis of this prosecution was read to Schneider and I asked whether or not that was true.

THE COURT: You might read that, and if Mr. Sedam wants any more of it read he can look at it at recess, and then it can be read.

MR. TOOLAN: "Q. Do you recall among other things

having said in that statement the following, which I read to you: "We turned through the park, could not see any of them on George Street, Kaufman said I am going home; Hayes and myself took Kaufman through the park to College Avenue entrance and left him; Hayes and I went to Easton Avenue. " (Reading). "A. It is untrue in all respects where it refers to Hayes as having used a revolver for any purpose on that night on those premises on the Phillips farm".

MR. TOOLAN: Cross-examine.

CROSS-EXAMINATION BY MR. SEDAM:

Q This paper is a statement signed by Justice Sutphen, isn't it? It is like a report of the proceedings by Justice Sutphen? A Yes, sir.

Q And you transcribed what he gave you to transcribe, is that right? A Yes, sir.

Q That is the report written up by Justice Sutphen, or handed to you, or did you take stenographic notes yourself?

A I took the stenographic notes myself.

MR. SEDAM: That is all.

REDIRECT EXAMINATION BY MR. TOOLAN:

Q That is merely certified to by Sutphen as being a transcript of the record, is it not? A Yes, sir.

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BY THE COURT:

Q

That is a true transcript of the evidence that was taken
at this hearing before Sutphen, is it?

A It is.

W I L L I A M P. S U T P H E N, a witness produced on behalf of the state, being duly sworn according to law, on his oath, saith:

DIRECT EXAMINATION BY MR. TOOLAN:

- Q You are a Justice of the Peace? A Yes, sir.
- Q And have your office in Somerville? A Yes, sir.
- Q Are you the Justice of the Peace before whom Clifford Hayes was arraigned for a hearing on October 12 of this year? A Yes, sir.
- Q What witnesses were produced there on behalf of the State?
- A On behalf of the State?
- Q Yes. A Mr. Schneider.
- Q Was he the only witness? A Yes, sir.
- Q State whether or not the testimony there on that day was taken down stenographically? A It was.
- Q By the young man who was just on the stand? A Yes, sir.
- Q Did you see the transcript that he made of the testimony that was taken there on that day? A Yes, sir.
- Q Have you read that over? A Yes, sir.
- Q Is that in substance the testimony that was taken there?
- A Yes, sir.
- Q You have certified to that effect on the bottom of it?
- A I have.
- Q What did you do after the hearing there with Clifford Hayes? A. What did I do?
- Q Yes. A I discharged him.

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CROSS-EXAMINATION BY MR. SEDAM:

Q Justice Sutphen, the complaint upon which this hearing was later held was made by whom? Do you know? A I think by Mr. Totten.

Q A complaint on information and belief, was it not?

A Yes.

Q The papers in this case, at the time of the hearing, were not previously sent by you to the Somerset County Grand Jury at all, were they? A No.

Q It was a proceeding, as I understand it, on the initiative of the Prosecutor due to the recantation by Schneider of the original statement made by him? A Yes, sir.

Q And on the strength of the recantation Hayes was discharged from custody? A Yes, sir.

MR. SEDAM: That is all.

REDIRECT EXAMINATION BY MR. TOOLAN:

Q Did you say that Schneider had retracted or recanted on his story before he appeared before you? A No, I didn't know a thing about it until I got down there after dinner at the hearing.

MR. TOOLAN: That is all.

That is the State's case.

MR. SEDAM opens the case for the defendant.

ADJOURNED UNTIL TOMORROW, FRIDAY,

December 8, 1922 at 10:30 a. m.

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DEFENDANT'S CASE.

R A Y M O N D S C H N E I D E R, the defendant, being
duly sworn according to law, on his oath,
saith:

DIRECT EXAMINATION BY MR. SEDAM:

- Q How old are you? A Twenty-three.
- Q You live here in New Brunswick? A Yes, sir.
- Q Where? A 100 Sicard Street.
- Q With whom do you live? A My parents.
- Q Any other members of the family? A My aunt and grand-
mother.
- Q A brother? A A brother.
- Q Have you always lived in New Brunswick? A Yes, sir.
- Q Raymond, you are the one who, in company with the girl
named Pearl Bahmer, discovered the bodies in the murder
case, are you not? A Yes, sir.
- Q When was that? A September 16.
- Q And of course, reported the matter to the authorities,
didn't you? A Yes, sir.
- Q After discovering those bodies when were you first called
in to conference or consultation by the authorities?
- A It was in September, I think around the 24th of September.
- Q Who came after you then? A Mr. Davis and one of these
other authorities.
- Q When you say Davis, do you mean Mr. David, the man who
was on the stand? A Mr. David.

Q Where were you taken on September 24? A To the
Prosecutor's office.

Q In this building? A Yes, sir.

Q On that day did you make a statement or give a statement
to Mr. David? A Yes, sir.

Q Was it in writing or was it simply verbal? A It was
in writing.

THE COURT: This is the statement referred to
on September 24?

MR. SEDAM: September 24. It is in evidence.

Q Just looking at this, these yellow sheets, that is your
hand writing, is it? A No, sir; it is not my hand
writing.

Q Did you write your name down here at the bottom?

A Yes, sir.

Q This too (indicating)? A That is not my writing there.

Q That is not your writing? A No, sir.

Q Is this your writing up here? A Yes, sir.

Q Raymond, do you remember now what you said in that state-
ment? A I couldn't really give you the whole state-
ment just as it is written down there just at the present
time.

THE COURT: Is there any question about him
having made that statement?

MR. SEDAM: There is no question about it.

Q Do you remember what you said in that statement? I mean
do you remember in a general way? A Yes, I do.

Q Was what you said in that statement on September 24, and to which you signed your name true? A Yes, sir.

Q Reference has been made here, Raymond, that after you made this statement on September 24 you were confronted by Pearl Baymer upstairs in the Prosecutor's office, and then as a result of what she said up there, you changed your story and said what Pearl was saying was true, is that correct? A Yes, sir.

Q Who signed your name to the bottom part here, the second signature that I show you, which follows the words, "I want to say at this time, after being confronted by Pearl, and after she has repeated her statement, that what she says is true", who signed that bottom statement?

A I couldn't say. It doesn't seem to be my hand writing.

Q How many times were you brought down to the Prosecutor's office? A About five times.

Q Do you know when? A I couldn't give the exact dates of all the times.

Q The first time you were there you say was on September 24?

A About then.

Q When were you there again? How many days after? A About two weeks later.

Q Well, that is October 8, isn't it? That is the day that you made this typewritten statement, isn't it, or the statement which was later reduced to typewriting?

A That was on October 8.

Q That was on October 8? A Yes, sir.

- Q Were you there between September 24 and October 8?
- A Yes, sir; I was.
- Q Who brought you there? Or how did you come to there?
- A Well, the people from the Prosecutor's office brought me several times, and I had occasion to come alone myself, they sent word up to the house I should come down alone.
- Q Did you come down alone? A Yes, sir.
- Q Who questioned you there that day, if anybody? A The Prosecutor's.
- Q Well, who? A Mr. David and several of the other ones upstairs.
- Q Don't you know the names, Raymond? A I didn't know them all by name.
- Q You have named Mr. David. Anybody else? A There was Mr. Fitzpatrick upstairs, and there was a State policeman was there too.
- Q Was that statement made in between the 24th of September and the 8th of October reduced to writing? A No, sir.
- Q That was not reduced to writing. Were you there more than between the 24th of September and the 8th of October?
- A Yes, sir.
- Q How many times? A I was there about three times between September 24th and October 8.
- Q Were any of those statements in between those dates reduced to writing? A No, sir; it was not.
- Q Where were you on October 8, 1922? A I was at home.
- Q What time of day did the authorities come up there after you?

A About one o'clock.

Q Where were you taken? A To the Prosecutor's office in this building.

Q Do you know what time it was when you arrived here?

A Shortly after one o'clock.

Q What happened upstairs in the Prosecutor's office, Raymond, on that Sunday afternoon? A Started brought me down to check me up on some of the questions.

Q Who said that? A Mr. David.

Q What did he do or what did anybody do by way of checking you up on some questions? What did he ask you? A Get me to make a new statement.

Q Who asked you to make a new statement? A Yes, sir. Wanted a new statement.

Q What did you tell him? A I told him I didn't have anything more to say, that I told all I had knowed.

Q Was anything said about telling the truth, or whether what you had said was the truth? A Yes, sir.

Q Who said that? A Mr. David and Mr. Totten and the State officers.

Q Yes, but did you say anything about the truth of your statement, whether or not it was true? A I said I had been telling the truth. I said, I can't tell any more than I have told.

Q Well, when you told them that, what did Mr. David or anybody say to you? A "Come on, you know more than you have told us".

- Q What did you say? A I said, "I don't know any more than I have told you now".
- Q Where did this questioning take place? A In the front office.
- Q That is in the main office of the Prosecutor? A That is in the main office of the Prosecutor.
- Q The one nearest to the front of the building? A Yes, sir.
- Q Who was in that room? A State officers, Mr. Totten, Mr. David, and the other officers.
- Q Was Mr. Totten there when Mr. David began questioning you?
- A I am pretty sure he was.
- Q How many were in there altogether? How many State officers?
- A Three to four State officers there.
- Q Mr. Totten, Mr. David, and who else? A I am pretty sure Mr. Beekman was there, if I am not mistaken.
- Q I am referring to Sunday afternoon now. A On Sunday.
- Q Was Mr. Beekman there right from the start? A I don't know if he was in there. I know he come in the front office later on.
- Q You saw Mr. Silzer there, didn't you? A Mr. Silzer come in later on. I couldn't say if he was in the other office or not.
- Q Had you told this story which is put in typewritten form on that Sunday before Mr. Silzer came there to take it down in shorthand? A I expected, I was starting the statement there, and then I suppose he telephoned or something, I couldn't say, or whatever he done, he got Mr.

Silzer there, and Mr. Silzer come in and he took it down in shorthand.

Q Now, Raymond, I want to know why was it, after you had told Mr. David that you had told him all you knew, that was true, as you say, why was it that you made a different statement on Sunday, October, the 8th? A It was by coaxing.

Q By being coaxed? A Yes, sir.

Q Who coaxed you? A Mr. Totten and the other authorities.

Q Well, did Mr. David? A Mr. David, he was in and out. He didn't have much to say.

Q Well, how could they coax you to tell a story after you had already said that what you had said was the truth? How could they get you to make that? A He said, why you know more than you do now, he said you ain't told us all.

Q Yes. When was Hayes name first mentioned to you, that afternoon, or that day? A It was before the statement was started to be written.

Q Before the statement was started to be written? A. Yes, sir.

Q And when was the statement started? A The statement was started about one o'clock, I should judge. No, it wasn't one. Around after two o'clock.

Q And who mentioned Hayes's name to you before the statement was written? A Mr. David.

Q What did he say about Hayes? A He said suppose I bring Hayes in and confront you.

- Q Yes. Confront you with what? A He said, "Yes", he said, "Hayes was up on Phillips property". I said, "He was not".
- Q Who said to you that Hayes said he was up on Phillips property? A Mr. David.
- Q Did he make any statement that Hayes said you were on the Phillips property? A He said he was on Phillips property on the night of September 14. I said we were not.
- Q What else did he say that Hayes had said? A I couldn't say what else he said, because I don't remember what he did really say after that. And he went out and got Hayes.
- Q When did he go out and get Hayes? A Right after he said suppose I confront him, and I said yes, and he brought Hayes and the Bahmer girl.
- Q Now, Raymond, I want you to get this absolutely straight as to time, as near as you can possibly do it. I want to know what time of day it was, as near as you can tell that you were first told by Mr. David, or Mr. Totten, or anybody else, that Hayes said that you and he were on the Phillips farm on the night of September 14? A It was shortly after two o'clock.
- Q Did you see Hayes that Sunday? A No, sir; I didn't see him in there.
- Q Didn't you see him up in the Prosecutor's office?
- A No, sir; I didn't.
- Q On Sunday, October 8? A Wasn't in around where I was

in the presence of the offices.

Q Were you confronted with Hayes that Sunday? A Yes, sir.

Q Then you saw him, didn't you? A Yes, after he brought me and confronted me with him.

Q I don't mean before that. I mean did you see him upstairs here, did you see Hayes upstairs here? A Yes.

Q When, what time? A After he confronted me, after two o'clock.

Q After two o'clock, that could mean any time. Was it three or four? A Between two thirty and three.

Q Is it a fact or is it not a fact, Raymond, that you were not confronted by Hayes on that Sunday after six o'clock at night? A No, sir; it is not.

Q You were confronted with the Bahmer girl that afternoon too, weren't you? A Yes, sir.

Q What time was that? A Same time Hayes was confronted with me.

Q Hayes and the Bahmer girl were brought in the room at the same time? A Yes, sir.

Q How do you know, and why do you say that was two thirty or three o'clock when this happened? A Because it wasn't long after I was brought in and they started.

Sat around upstairs quite a while and they was talking to me upstairs, and when he went out of the room and he come in and he said, suppose I bring Hayes in and confront you with him. I said all right. So they brought Bahmer and Hayes in.

- Q I want to know, Raymond, when Hayes was brought in the room to confront you, I want to know everything that was said back and forth between you and Hayes, or by Mr. David? Just what took place there? A Well, he said Hayes said I was on Phillips property, him and I was on Phillips property the night of September 14. And I said we were not. So they went out and brought Hayes in and confronted, and Hayes swore he was there on Phillips property the night of September 14, and we was arguing there he was not.
- Q Did Hayes say right there in the room before the detectives and before you, that you and he were on the property the night of September 14? A Yes, sir.
- Q After Hayes said that to you what did you say back to Hayes? A We had harsh words.
- Q Well, what harsh words? A Damning each other upstairs, and swearing at each other.
- Q You called him a damned liar, didn't you? A Yes, sir.
- Q And he called you a damned liar? A Yes, sir.
- Q What else was said besides that? What else happened after that? A They took Hayes out and Pearl, took they out in another room.
- Q After they had taken Hayes and the Bahmer girl out of that room, who stayed in the room with you, or who came in the room where you were? A They started asking questions, and they was in the room with me, Totten and the State officers.
- Q When you say Mr. Totten and they were in the room, I want

to know who? You know these men by sight now. Tell us as nearly as you can who they were? A There was Mr. Totten, State officers, there is a couple of them right there in back of you, now that was into the office upstairs.

Q How many men altogether? A There was three to four.

Q What did they do? A They started to holler, you know more than you do, come on and tell us, and I was suffering there with the sore finger, I couldn't hold up, I had no sleep or anything else for several nights, and I was suffering, I was near crazy, so I had to do something to get some kind of rest.

Q Who spoke to you? A Mr. Totten, he spoke to me, and the officers, they spoke to me, throwing questions each way at me.

Q Did the State police question you too? A Yes, sir.

Q How long did that keep up, Raymond? A It kept up until, I should judge, twelve o'clock that night.

Q What time was it that this statement was made on October 8, that you signed it, after it had been put into type-writing, what time about was that? A After three o'clock about three thirty, three fifteen.

Q Raymond, did you read this statement over? A Yes, sir. Glanced over it.

Q Did you take this statement in your hand and read it page by page? A From the first page to the last.

Q And did you put your name down here where it says: "I, Raymond Schneider, has read the above statement over fully

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and it state correctly my statement made in the presence of assistant Prosecutor Toolan, Officer ^{Dickman} Beekman, Officer Totten, Sergeant Lamb, Officer David, Corporal Spillman, and Mr. Silzer; I make the said statement freely and without any threats or promises having been made to me to induce the same", why did you put your name down to that?

A What else was I going to do? I wasn't going to sit there and be pestered all the rest of the evening with them. They had pestered me enough through that day.

Q After this statement of October 8, which you say was made in the afternoon somewhere around three thirty, and signed by you at that time, were you allowed to go out of the building? A No, sir; I was not.

Q What was done? A They shoved me into the back office.

Q Well, now, when they shoved you into the back office, you mean they told you to go in the back office?

A Take me there.

Q How long were you kept in the back office? A I was kept there until Monday.

Q Well, now, after this statement was made around three thirty, did anybody speak to you after that? A Well, they kept talking to me all night.

Q Who kept talking to you all night? A Mr. Totten and the State officers coming in and out, you know more than this, and you know more than that.

Q After you had made this statement did they come and tell you that you knew more than that? A Yes, sir.

- Q Who told you that? A Mr. Totten and the State officers.
- Q Did Mr. David? A Mr. David himself.
- Q What room were you taken into from the main Prosecutor's office, when you say back office, where do you mean?
- A In the back of this building.
- Q In the small room up here in the corner of the building?
- Back of the district room, wasn't it? A Yes, sir.
- Q What time were you taken in there? A It was after twelve o'clock that night.
- Q Well, now, Raymond where were you then after the making of this statement, at about half past three, up to twelve o'clock, which room was you in? A In the front office yet.
- Q I understood you to say a minute ago, after you had made this statement that you were taken out into a back office, I want to know, after you signed this statement on Sunday, October the 8th, which you have testified was about three thirty in the afternoon, what room you were kept in from then on? A I was kept upstairs in the Prosecutor's office in the front of the building.
- Q That is the same room that you made the statement in?
- A Yes, sir.
- Q How long were you kept there and what time were you taken out of that room? A I was kept there until twelve o'clock and taken right on out and put in the back office.
- Q In between the time of signing the statement at three thirty, and twelve o'clock at night, what were you doing, and who

was talking to you? A Mr. David and Mr. Totten and the State officers.

Q What were they saying, and who said it, if you can tell?

A Mr. Totten, he was saying, come on, I am talking to you like a father come on tell the truth. I said I am telling you the truth, I can't tell you any more than I have told. So they kept it up, and the State officers, come on, you know more than this, come on, cut out your lying, and all that stuff. I said I can't tell any more than I have told.

Q Had you had dinner that day at noon time? A Just a little bite home before I was taken away.

Q Did you have supper at six o'clock on Sunday? A No, sir; I did not.

Q Did you have anything to eat the rest of that day?

A No, sir; not that day at all.

Q You say at twelve o'clock, about twelve o'clock, that you don't know exactly, you were taken into this smaller room back of the district court, that is the little room in the corner of the building. Who went in there with you? A A couple of State officers.

Q Can you point them out who they were? Are they here?

A No, sir; they are not.

Q You don't see them at this time? A No, sir; I do not.

Q What happened in this smaller room upstairs? A They started, why don't you tell the truth and get out of here, and get out of here. I said, I can't tell you any more than I have told you.

- Q Well, is that all they did? A They said, Hayes in there is lying about you and lying about you, giving you the bag, he is putting it over on you. I said, yes, what can I do. I said, I can't help what he is lying. So they kept it up all the time the same way over and over.
- Q Did Detective David come in that room on Sunday night?
- A He come in and brought me in a couple of packs of cigarettes.
- Q Did he come in to question you? A He come in and brought me in cigarettes and went right out again.
- Q Were you sleeping in that room that Sunday night?
- A- I would get away in a doze and I would be waked up again.
- Q Who by? A By the State officers.
- Q What did they do when they awakened you? A Come on, Hayes is out there lying about you, come on, wake up here and answer these questions. I said, I can't answer no more questions, I have told you all I have knowed.
- Q Was Detective Totten in that room Sunday night? A I didn't see him in that room at all.
- Q How many times did you see Detective David in there during the night? A He come in and brought me the cigarettes in and come in and poulticed my finger.
- Q Had you been told at that time that you were to be held as a State witness? A No, sir; I was not.
- Q When was it that Detective Totten told you to tell the truth, come through and tell all you knew? A That was before that statement was made, the typewritten statement.

Q Do you remember Monday, October 9th ?

A Yes, sir.

Q Where were you ?

A In the rear office until a little after six-thirty that morning.

Q And as I understand it, you were in this smaller room from about twelve at night until six-thirty, or a little after six-thirty on the following Monday morning ?

A Yes, sir.

Q Where were you taken from the small room ?

A Into the front office of the Prosecutor's office.

Q That is the same room that you had made the statement in ?

A Yes, sir.

Q Who took you into that room ?

A State officers.

Q What happened in there ?

A They got me to make out another statement.

Q Well, now, they got you to. What happened there ?

A He said, "come on".

Q Who said ?

A State officers.

Q Which state officers, don't you know ?

A They are not here.

Q State officer said "come on now", and what else ?

A "You know more than you have told us." I couldn't hold up my head, I was sick, and everything else, and I was near loony, and they kept pestering me there, I had to cling

to the same statement, I had to, because if I didn't, I don't know what I would have done, I was so sick. I had to do something to get relief from them.

Q What was the condition of your finger on that Monday morning ?

A Pretty bad Monday morning. All swelled up, it was going up the back of my hand.

Q As a matter of fact detective David had assisted in poulticing that finger several times on Sunday, hadn't he ?

A He poulticed it twice on Sunday.

Q Who was the first person who talked with you on the following Monday morning about making a new statement, that is, what men that you know ?

A If I am not ~~mis~~taken it was Mr. David or Mr. Totten.

Q What time did they come into the room on Monday morning ?

A I should judge it was eighty-thirty or nine o'clock.

Q Well, now, Raymond, you tell us in your own words what happened there in that room on Monday morning ?

A They started, "Come on, you know more than you have told us, come on and give us a statement, a good statement, we want a good one". So I cling to the same story that I had told, that last statement on October 8th.

Q Well, was the statement that you told on October 8th the truth ?

A No, sir; it was not.

Q I want to know why you told that story on October 8th if it was not the truth ?

A Well, I was forced.

Q How ?

A By officers and different people, different authorities in the prosecutor's office.

Q How did they force you, Raymond ? What do you mean forced ?

A They seen my conditions, they knowed they couldn't make me hold up any longer, and I did. I hung out on this old statement as long as I possibly could. I had to give up then, or some time later.

Q And the old statement you had told them was the truth ?

A Yes, sir.

Q Raymond, referring still to Monday morning, October 9th, what wrere the circumstances surrounding the making of this second statement, the one that was made in the presence of Anthony Silzer, George Totten, Ferd A. David, John J. Lamb ? Prosecutor Beekman was there, was he ?

A I think he was there, Mr. Sedam.

Q Well, now, you think he was. Don't you know ?

A I ain't positively sure if he was there or not.?

Q Didn't Prosecutor Beekman put the question to you, "Do you wish to make a further statement, in the presence of myself and detective Totten and Mr. Silzer, realizing what official position we each hold, and I wish to further inform you that you are not obliged to talk unless you desire to, and whatever you might say now at this time can be used against you, and your statement must be voluntary", did

somebody say that to you ?

A Mr. Totten I know spoke during that subject on to it on Monday.

Q Did you tell them, in answer to a question, that your idea of making this statement was to correct any omission made in your former statement, or inaccuracies in your former statement ? Did you tell them that ?

A I didn't tell that.

Q What ?

A I did not say that at all.

Q Do you understand those words I have just used to you ?

A I understand some of them; yes, sir.

Q Do you know what the word "inaccuracies" means ?

A No, sir; I do not.

Q Did Mr. Beekman or anyone there say to you, at the time of this statement on the night of September 14th, 1932, "You go ahead and tell us of that night", and did you then make this long connected statement, consisting of five or six typewritten pages, without prompting from them ?

A No. I was prompted from them.

Q After you were prompted by them ?

A Yes, sir.

Q Did you read that statement through ?

A I looked it over the same as I did the rest of them.

Q Well, when you say looked it over - -

A From page to page.

Q And read it ?

A Yes, sir.

Q Was it a true statement ?

A No, sir; it was not.

Q Why didn't you tell them it wasn't a true statement ?

A If I told them it wasn't a true statement they would have been pestering me all the rest of the week, between holding me there longer and longer. I had to do something to get out of their possession.

Q Do something to get out of their possession ?

A Yes, sir.

Q Did you say to the officials, Raymond, "I did not tell the truth the first time I was summoned to the prosecutor's office, because I did not want ~~it~~ to get out that I was going with Pearl, and I thought maybe someone else would be charged with the killing", did you say that ?

A Yes, sir; I did.

Q You told them that you didn't tell the truth the first time you went to the prosecutor's office ?

A Yes, sir; I did.

Q Did you say "But when I found out that Hayes was passing the bag to me, then I made up my mind to tell all I knew about him" ?

A Yes, sir.

Q Is that true ?

A Yes, sir.

Q "I have been held in the prosecutor's office since yesterday, but I have been treated fairly by the officials", did you

say that ?

A That was their suggestion there.

Q Well, were you treated fairly by the officials ?

A No, sir; I was not.

Q "Some of them would get a little cross when I hesitated to tell what I knew, but no one has used any force, but to the contrary they have tried to be as kind to me as they could under the circumstances", is that your language ?

A No, sir; that is not my language.

Q Did you tell them that, to put it down that way ?

A No, sir; I did not.

Q "I am suffering from a sore finger and Mr. David has poulticed it several times, and whenever I expressed a desire for anything to eat, I got it", did you tell them that ?

A No, sir; I did not.

Q "I only missed one meal since I have been here", did you tell them that ?

A No, sir; I did not.

Q As a matter of fact, did you miss more than one meal ?

A Yes, sir; I missed more than one.

Q "I was allowed this evening, and before making this statement, to see my counsel, Mr. Sedam, and my father", did you have any conversation with me at all about making any statement ?

A No, sir; I did not.

Q Do you remember when I walked in the prosecutor's office

upstairs with your father ?

A Yes, sir.

Q What time of night was it, about ?

A I judge it was around seven o'clock.

Q Had this statement been made at that time ?

A What is that, September 9th ?

Q This is the Monday statement, yes.

A It was made after you went.

Q This statement was made after I left there, wasn't it ?

A Yes, sir.

Q "I have been promised no favor and I am making this statement perfectly freely and without being compelled to do so, and I have been told that if I wish to keep silent I can, and that anything I say might be used against me", did you put those words in that statement ?

A I put that in.

Q Is that your language, Raymond ?

A Not all my language; no, sir. It is between Mr. Totten and myself put that language in.

Q Did you wind up at the end of your statement by saying, I want to read that to you, "I stood by the tree, as I have stated, when the shots were fired from the revolver by Hayes", did you add that on the end of your statement ?

A No, sir; I did not.

Q Raymond, did you read this part which says, at the very end of the statement: "Before signing this statement and taking my affidavit to it, it was handed to me by Mr.

Silzer, in the presence of Mr. David and Mr. Totten, and I have read it over, and it states correctly what I wish to volunteer in this case", did you say that, is that your language ?

A Not all of my language.

Q "I was assisted by Prosecutor Beekman in preparing this statement and he has allowed me to use my own language in making it", is that your own language in that affidavit ?

A No, sir; not all of it.

Q "But he was not present when I signed it and read it over" ?

A No, he was not.

Q Raymond, this was all typewritten and then handed to you, wasn't it ?

A Yes, sir.

Q Wasn't Mr. Beekman present at that time ?

A He maybe come in shortly after the statement was started.

Q Do you know what time Hayes was taken away from the building ?

A I couldn't say.

Q At the time Hayes was - - when Hayes was taken away during the day, or any time during the day, did detective Totten come to you and ask you if you didn't want to change your statement, or words to that effect ?

A Not as I remember he didn't.

Q Did he urge you to consider what you were doing and to change your statement, if you were not telling the truth, because Hayes was being taken away ?

A He said, do you want to make any different statement, that is all he said to me. He said, "come on, tell the truth". He said, "I am talking to you like a father". I said, "Well, I am telling you all I could possibly tell you". I said, "I am talking to you like a son would".

Q What time were you taken away from the building here ?

A To Somerville ?

Q Yes.

A Ten-fifteen Monday night.

Q You had then been in this building from the previous Sunday at about one o'clock, hadn't you ?

A Yes, sir.

Q And you were taken to Somerville jail and held there as a complaining witness for the State, weren't you ?

A Yes, sir.

Q And then you told Mr. Totten that you wanted to change your story, didn't you ?

A Yes, sir; I did.

Q And at this hearing that has been referred to, you did change your story ?

A Yes, sir.

Q And Hayes was released ?

A Yes, sir.

Q Now, Raymond, the statement which you are charged with making in this affidavit, and which is the subject matter of this indictment, as of October 9th, was not true, was it ?

A No, sir; it was not.

Q And again I ask you, why did you make that affidavit on October 9th, the one made on Monday night, why did you make that affidavit if it was not the truth ?

A Well, I was forced by the State officers.

Q And when you say forced by them, how do you explain the word "forced" ?

A By threats.

Q What kind of threats ?

A There was another trooper coming in from Newark, or New York, I couldn't say which one, one of them two towns it was from, and they said, you will have to tell the truth, you may as well tell it to us, if you don't tell it to us, they will make you tell, beat you and make you tell it.

Q Who said that ?

A That gentleman right in back of you, Mr. Sedam.

Q This gentleman here ?

A Yes, sir.

MR. TOOLAN: That is Corporal Dickman of the State police.

MR. SEDAM: Cross examine.

CROSS EXAMINATION

BY MR. TOOLAN:

Q Raymond, where were you born ?

A New Jersey.

Q Where in New Jersey ?

A New Brunswick.

Q You were educated in the public schools here in New Brunswick ?

A Yes, sir.

Q How far did you go in school ?

A Couldn't possibly say now.

Q What ?

A I couldn't say now how far I went in school.

Q What grade did you go to ?

A I think I was in the sixth when I left.

Q How old were you ?

A I have been out so long I couldn't say how old I was then.

Q You have never spoken any other language but English, have you ?

A No, sir; I have not.

Q You are twenty-three years old ?

A Yes, sir.

Q And married ?

A Yes, sir.

Q How long have you been married ?

A Married two years.

Q Now, Raymond, you were in the prosecutor's office the first time on the day the bodies were found, which I believe was September 16th, isn't that correct, Saturday ?

A No, sir; I was not.

Q You didn't come here that time ?

A No, sir.

Q Where did you go ? Where did the authorities question you on that occasion ?

A They took me to police headquarters.

Q At that time there were no members of the prosecutor's force, that is, Mr. David or Mr. Fitzpatrick, or any of those men present, isn't that true ? You were questioned by the New Brunswick police ?

A Yes, sir.

Q The first time that you were brought into the prosecutor's office was when you made this statement here on this yellow sheet of paper, isn't that correct ?

A Yes, sir.

Q As to your whereabouts on the night of the murder, which was Thursday, and the Friday following, and Saturday morning, isn't that so, when you found the bodies ?

A Yes, sir.

Q And who was present when you made that statement ?

A Mr. David.

Q And Mr. Fitzpatrick, wasn't he ?

A I think he was there too, if I am not mistaken. I am speaking loud as I can without yelping.

THE COURT: Well, yelp, then. Don't talk like a baby. You are not doing yourself any good, unless the jury hears you.

Q What time of the day or night, if you remember, was it that you were in on September 24th ?

A I think it was in the afternoon.

- Q You made that statement voluntarily, didn't you ? There was no force, or threats, or anything else used that day ?
- A No, sir; not on that statement.
- Q And Pearl Bahmer was in the office that same day, wasn't she, September 24th, the day you made this statement ?
- A She wasn't in the office in the front of the building where I were.
- Q No, but she was in the office ?
- A She was in the office.
- Q And after you had made this statement Pearl Bahmer was brought into the inner office in front of you, and this statement was read over to her, and asked if it was correct, isn't that right ?
- A It was not read over to her.
- Q Well, the statements that you made in here were told to her, and she was asked if that was correct, isn't that right?
- A She wasn't told in front of me, not as I know of.
- Q Well, at least she came in and told you to your face that everything that you said in this statement, or practically everything relating to the night of September 14th, the night of the murder, was a lie ? Didn't she tell you that ?
- A Yes, sir.
- Q She did tell you that. And then when Pearl told you that, you admitted to detective David and Fitzpatrick that what you had said in this statement was a lie, and that everything Pearl Bahmer had said was the truth, isn't that so ?
- A Yes, sir; I did.

MR. TOOLAN: I will read this statement now.

This is the first statement of September 24th.

(Statement read to the jury by Mr. Toolan.)

Q You say this second signature below that statement is not your signature ?

A Don't seem to be.

Q It is written with more of a scrawl than the original signature you wrote, isn't that true ?

A Yes, sir.

Q Was it due to the fact that you were a little bit shaky and nervous after Pearl came in and told you what you had said was a lie ?

A Shaky ? I wasn't shaky.

Q But you say that is not your signature ?

A Don't seem to be.

Q Is that detective David and Fitzpatrick's name signed there, is that right ?

A Yes, sir.

Q Now, Raymond, the next time you were in the prosecutor's office was on Sunday, October 8th, isn't that true ?

A That was the last time I was brought down.

Q That was the next time, wasn't it ?

A No, sir; it was not.

Q Did you ever make any other statement that was taken down in writing, to the prosecutor's office ?

A Not in writing.

- Q And you know that every statement you ever made in the prosecutor's office was taken down in writing, don't you ?
- A It was in shorthand.
- Q What is that ?
- A The other statement was taken down in shorthand.
- Q And then written up and given to you to sign, isn't that true ?
- A Yes, sir.
- Q And the only statements that you know of are this statement of September 24th and the statement of October 8th and 9th, isn't that true ?
- A There was other ones besides them.
- Q Can you tell me how long after September 24th it was before you were next brought to the prosecutor's office ?
- A I know I was brought down -- they come up to the house and I wasn't home when they come up to the house, and they left word at the house I should come down the next day. I went down the next day and there was another statement made out. There were several days, a few days afterward there was another one.
- Q Did you sign those statements ?
- A I signed them.
- Q That is two other occasions. Now, how many other times ?
- A There were two or three times more I was down, up to October --
- Q What statements did you make on these other occasions ?
- A I couldn't say what the statements were.

Q I mean, did you change your story so as to agree with the story that Pearl Bahmer had told them about where you were on the night of September 14th ?

A I couldn't say whether it agreed with Pearl's or not, because I didn't see.

Q It is a fact that you and young Kaufmann and Clifford Hayes followed Pearl Bahmer and her father on that night, isn't that true ?

A Yes, sir; it is.

Q So that you say still that this statement is a lie, isn't that right ?

A No, it is not a lie.

Q Well, it is a lie insofar as it relates to what happened, or what you did on the night of September 14th ?

A Well, it was, yes.

Q That part is a lie, and you still say it is a lie, isn't that right ?

A Up to where - - they didn't ask me who I followed, or anything else.

Q So that first statement you ever gave the prosecutor's office was a lie, that is right, isn't that so ?

A No, sir; it was not.

Q I want to read this part to you and ask you whether or not it is true: "At seven-forty p. m. I with Pearl Bahmer went to the Strand Theatre and bought tickets and she and I sat in the center of the orchestra, I don't remember what picture, outside of the features and the comedy, I don't

know what any part of the show was. We came out about nine-thirty. I left Pearl at George and Albany street. She went home. I went right straight home. I read the papers until about eleven or eleven-thirty, and then went to bed. I arrived home at nine-forty-five. All my folks were in bed." That statement is not true, is it ?

A That is true; yes, sir.

Q Isn't it a fact, Schneider, that on the night of September 14th, the night that Doctor Hall and Mrs. Mills were murdered, that you, together with Clifford Hayes and young Kaufmann followed them up Albany street, past Johnson and Johnson's, up into Beucocleuch Park, and that you were in the company of Hayes and Kaufmann until about ten-thirty or eleven ?

A Yes, I was.

Q That is true, isn't it ?

A Yes, sir.

Q And isn't it a fact that about that time Kaufmann went home and that you remained with Hayes until about one o'clock that morning ?

A I did.

Q Well, now, if that is true, how can this be true, referring to statement marked Exhibit P 3, of September 24th ? How can this be true if that is true ?

A Well, the statement wasn't brought up as though -- into my notion and supposed to be -- Hayes and Kaufmann were supposed to be into it. They didn't compare that into

the statement, they didn't when they asked me about it.

Q Well, you told them that you went home and went to bed at eleven o'clock in this statement, didn't you ?

A Yes, sir.

Q Now, that was a lie, wasn't it ?

A That was a lie; yes, sir.

Q So that so much of that statement that says that, that is a lie, isn't it ?

A Up to there; yes, sir.

Q You told them in this statement that you went to the theatre with Pearl Bahmer that night and took her home, that is a lie too, isn't it ?

A No, sir; it is not.

Q It is a fact that the part of the statements of October 8th and 9th that refer to you being with young Bahmer and Clifford Hayes is true, all that part of it, going up through Albany street and up into Beuccleuch Park and in there, that part of it is true, isn't it ?

A Up to Beuccleuch Park it is.

Q There were no threats or force or anything else used on you when you made this statement of September 24th, were there ?

A No, sir.

Q So that without any threats or force, the first statement you ever made to the prosecutor's office was a lie, is that right ?

A Well, when it comes down to fine points, it must have been a lie.

Q And not coming to fine points at all, but just as a matter of you knowing whether it was the truth, or a lie, it was a lie, isn't that right ?

A Some parts of it was.

Q And you admitted right after you made this statement, when Pearl was brought in before you, that it was a lie, didn't you ?

A Yes, sir.

Q And you admitted that Pearl told the truth, and that you lied, isn't that true ?

A I didn't know she was telling the truth.

Q Well, she told you what happened that evening ? Isn't that what she said you lied about ?

A She didn't say what I lied about.

Q But she told you you were a liar, and you admitted it before her, isn't that right ?

A She said on that point that I was a liar.

Q On all the points of September 14th, the evening, she told you, didn't she ? Didn't she tell you that ?

A No, sir; she did not.

BY THE COURT:

Q Why did you lie in that statement of September 24th ? What reason did you have to lie ?

A She come in and she said your statement is a lie. I said it is not. And there was quite a little argument up there. Well, then, I get worked up and said all right, let it go as a lie then.

Q I am not asking you that. You say yourself now that the statement that you made on September 24th contained lies. You say that you were not under any force or threats when you made that statement. You have given the reason why you have lied in making the statement of October 8th and October 9th, that you were forced and threatened, and that is why you made a statement that was a lie.. Now I am asking you why you made a statement that was a lie, or contained lies, when you were not under any force or threats ? Why did you lie on September 24th, in that statement ?

A Well, I took her word that she was calling me a liar, and I let it go that way.

Q No, but now you are being asked this, not that she is here, or confronting you, as to whether or not Kaufmann and Hayes went with you in Beuccleuch Park, and you say that is true. Isn't it ?

A Yes, sir.

Q Well, why are the lies in that statement of September 24th ?

A I couldn't answer that.

Q What ?

A I don't know why it is.

THE COURT: Proceed.

BY MR. TOOLAN:

Q This statement was made by you voluntarily before you were ever confronted with Pearl, isn't that so ?

A Yes, sir.

Q So, the fact she confronted you, didn't make this a lie ?

A No, sir.

Q Was there ever any force or threats used against you on any of these visits to the prosecutor's office between September 24th and October 8th ?

A Only on October 8th.

Q So that these visits in between time you had a perfectly agreeable time with the detectives, is that right ?

A Yes, sir.

Q After your experience on September 24th, when you were confronted with Pearl and you admitted you were lying, you knew at that time that the only thing the men in the prosecutor's office wanted was the truth, isn't that right ?

A Yes, sir.

Q They told you they didn't want you to lie, but that they wanted the whole truth about this matter, that is correct, isn't it ?

A Yes, sir.

Q And that is the thought that you had in your mind when you came into the office, about one o'clock on Sunday, October 8th, isn't it ?

A What was that one again ?

Q I say, you knew when you came into the office on Sunday, October 8th, that the men in the prosecutor's office wanted the truth and nothing but the truth, isn't that true ?

A I didn't know what they wanted, until they said they wanted to check up on the statement.

Q Up to that time no one had ever invited you to lie, had they ?

A No, sir.

Q Then you did know that they wanted the truth, didn't you ?

A Yes, sir.

Q You were in the prosecutor's office upstairs with detective David and Sergeant Lamb of the State police, and corporal Dickman of the State police, and detective Fitzpatrick, weren't you, when you first came there that Sunday afternoon ?

A I think Mr. David and all them officers was there just at the present time.

Q What is that ?

A I think all of them was there at the present time, and Mr. David.

Q That is, those four men I have named were there when you first were brought in, that is true, isn't it ?

A They was there.

Q Did they tell you that they felt that you hadn't told all that you knew about this thing, and they wanted you to make another statement ?

A They said, "come on, tell the truth, you know more than you told us."

Q And they told you that you had lied on September 24th and now they wanted a true statement, isn't that correct ?

A They did not say that.

Q Well, they told you they wanted the truth then, that is right ? That is so, isn't it ?

A Yes, sir.

Q And they told you that over and over again, didn't they ?

A Yes, sir.

Q Do you remember the time that I came into the prosecutor's office there on that Sunday afternoon, October 8th ?

A No, sir; I do not.

Q Let me refresh your recollection and ask you if you remember that it was about quarter after four ? Do you think you had been in there about three hours, say, when I came into the office ?

A I didn't see you in the office.

Q What ?

A I haven't seen you in the office.

Q You didn't see me in the office that day ?

A No, sir; I did not.

Q Let me refresh your recollection this way: You were sitting on this side of the desk, weren't you, that is, on the far side, the side towards Paterson street, isn't that right ?

A I was sitting that way; yes, sir.

Q And Mr. Silzer sat right opposite to you, didn't he, with his paper and pencil taking down stenographically what you were saying, is that true ?

A Yes, sir.

Q And Mr. David sat on one side of you and a couple of State troopers behind you, isn't that right ?

A Not behind me.

Q Were they all in front of you ?

A They were in front of me.

Q You were sitting there smoking cigarettes, weren't you ?

A Yes, I was.

Q You were just as calm and collected at four o'clock in the afternoon as you are here now, isn't that right ?

A No, sir; I was not.

Q What ?

A No, sir; I was not.

Q You were not talking in any loud tone of voice much, were you ?

A I was talking in a lower tone.

Q What is that ?

A I was talking a great deal lower.

Q And didn't you sit on the opposite side of that desk, talking to Mr. Silzer, almost in your own language, except where you were interrupted by one of the men here, to clear up some point that you were not making clear, didn't you dictate practically this whole statement yourself, or didn't you talk it and Mr. Silzer take it down as you spoke it ?

A The majority of it is in my own language, and the rest in the others.

Q Now, up until that time, Schneider, up until the time you dictated this statement, as you have just said, you hadn't been told anything except that the authorities wanted the absolute truth, isn't that so ?

A Yes, sir.

Q And that they told you that you hadn't told all you knew, isn't that right ?

A Yes, sir.

Q And that you had lied to them about your whereabouts, or where you had been on the night of September 14th, and they wanted the truth about where you had been on that night, isn't that true ?

A Yes, sir.

Q And there hadn't been any threat made up to that time that there were some new troopers coming down from Newark or New York that would beat you up, was there ?

A Yes, sir; there was threats.

Q That had been made before you started this statement ?

A No, sir. That was on Monday.

Q So I mean at the time you were making this statement on Sunday afternoon there hadn't been any threats that new troopers were being imported to beat you up, was there ? That is, that threat hadn't been made to you at that time ?

A No, sir.

Q And you were making that statement freely, weren't you, of your own free will ?

A Yes, by coaxing, after they found out my conditions as to how I felt, they coaxed and coaxed and coaxed.

Q No one suggested to you that Clifford Hayes had committed this murder, did they ?

A They said Hayes is out there saying I was on Phillips'

property the night of September 14.

Q They said Hayes said you were on the Phillips' property the night of September 14. But the first person who mentioned Hayes's name in connection with this murder was you, isn't that right? A Not that I know of.

Q What? A Not as I know of.

Q What do you mean not as you know of? A I don't remember mentioning Hayes's name--first one to mention Hayes's name about committing this murder.

Q Up until the time you made this statement on October 8, that Sunday, no one at that time had suspected Hayes of this murder, had they, until you said it? A I may have said it and I may not have been in my mind just at the present time that I said it.

Q But you did accuse Hayes of the murder there that afternoon, isn't that right? A I may have when I was out of my mind, suffering from my sore finger.

Q You have a pretty fair recollection of what happened there that Sunday so far. What I want to get at is this: Detective David or Mr. Totten, or the State police, or no one else said to you, now here Schneider, Hayes committed this murder, and we want you to say he did, nobody said that to you, did they? A No, sir.

Q So that this Hayes idea was your own idea? That is right isn't it? A By coaxing; yes, sir; it was.

Q Well, nobody had mentioned Hayes's name up to that time but you, had they? A I was mentioning Hayes's name,

but I didn't say that he done it, until he come in there and swore he was up on Phillips' property with me on September 14.

Q Let us get that straight. So the reason that you accused Hayes of this murder was because he came in and said that you were up on the farm? A No, sir; I didn't accuse him right after then. They said come on, come on, you know he was up there.

Q Let us get that other point straight. You say that Hayes was in there Sunday afternoon at two or two thirty, or rather at two thirty or three o'clock and that it wasn't until after Hayes had accused you of being on the Phillips farm that night, that you made this statement, is that right? A Yes, sir.

Q Now, I want to get that straight. You didn't accuse Hayes of this murder until Hayes had confronted you at two thirty in the afternoon and accused you of being up on the Phillips farm, is that right? A Yes, sir.

Q Now, let us get this straight too. Isn't it a fact, Schneider that you were not confronted with Hayes on that Sunday until about 11 o'clock at night? A No, sir; I was not. I was confronted with him before eleven.

BY THE COURT:

Q Well, when? A In the afternoon between two thirty and three.

BY MR. TOOLAN:

Q Before you made the statement? A Yes, sir.

- Q And isn't it a fact, Schneider, that while you were making this statement you were asked in the prosecutor's office whether or not you were willing to accuse Hayes to his face of this murder, and you said yes? A Not on that statement.
- Q What? A Not on that statement.
- Q Didn't you tell the men in the Prosecutor's office, including myself, that you were satisfied to accuse Hayes to his face of this murder? A I think I did.
- Q Now let me refresh your recollection about my presence there on that day. You say you don't remember me being there at all? A No, sir; I do not.
- Q First you don't remember whether I interrupted you or not then when you were making this statement. But do you remember that after you had made this statement and it had all been taken down by Mr. Silzer, and that Mr. Silzer went out of the room to write it up on the typewriter, that I said to you, Schneider, your statement does not sound like the truth, do you remember my saying that to you? A I don't remember you said that at all to me.
- Q Do you remember my calling your attention exactly to your statement in here where you said about fifteen or twenty minutes afterward, that is after the shooting, he met me on the lane near Easton Avenue, he said to me we are going home, and do you remember me asking you what conversation you and Hayes had when you were walking down the road towards Bucleuch Park, do you remember me asking you that?

A I don't remember you asking me. There was so many asking me different questions.

BY THE COURT:

Q Do you remember anybody asking you that particular question?

A There was several parties asking me.

Q Do you remember anybody asking you that particular question?

A I couldn't state if it was this gentleman or one of the state officers.

Q Well, was it asked? A It was asked.

BY MR. TOOLAN:

Q And do you remember that you said that you and Hayes didn't speak a word to each other about what happened under the crab apple tree, do you remember saying that? A Yes, sir.

Q And do you remember me saying to you that Schneider you would never get me to believe that in a thousand years, because it is not natural, it is not human, do you remember me saying that? A I don't remember you saying it.

Q Do you remember anybody saying it to you? A I remember somebody said it.

Q And do you remember when you said here that you saw Hayes's arm and you saw the flashes and you saw him shoot, and that you couldn't tell whether anybody fell or not, do you remember my saying to you that ^{if} you were within four feet of him, you would have had to see something, do you remember my saying that? A I remember somebody saying it.

Q And do you remember that you said you walked right on by

without even stopping to look, and I asked you whether or not you ran out, and you said no, you walked, do you remember my telling you that I would not believe that?

A I remember somebody saying it.

Q And don't you remember Schneider that with practically every part of your statement involving the actual shooting and what happened there that night under the crab apple tree, that you were told, not only by me, but by most everybody in that room, that they would not believe it, because it did not sound natural or human? Do you remember being told that? A Yes, sir.

Q And do you remember still saying it is the truth?

A Yes, sir.

Q And do you remember Schneider, that you signed this first statement on Sunday, October 8 in the little back room behind the District Court Clerk's office, isn't that where you signed it? A No, sir; I didn't.

Q And isn't it a fact that you signed this statement between ten and eleven o'clock, at night, back in that room, in the presence of all those men, is that right? A No, sir; I did not.

Q Don't remember the shade in that room being pulled down, do you remember that? A I remember the shade being pulled down.

Q And do you remember that after you signed this or that statement on Sunday, October 8, that you stood up and you said, "Gee, I am glad that is over, this thing has been

bothering me for weeks and now I have got it off my mind, and that is the truth, and Hayes committed this murder", do you remember saying that? A I don't remember saying it.

Q What? A I do not.

Q You did say that that was the truth and you were glad to have it off your mind, didn't you? A I may have said it.

Q And do you remember being asked in there at that time, and at various other times, whether you were making this statement with the hope or expectation of getting the reward that was being offered, do you remember being asked that?

A No, sir; I was not.

Q You were not asked that? A No, sir.

Q And do you remember saying that that wasn't the reason why you made it, but that just because this was on your mind, and you wanted to tell the truth, do you remember saying that? A I may have said it.

Q Now, Schneider, on Sunday afternoon, October the 8th, you started to make this statement at what time, about?

A Between two thirty and three o'clock.

Q So that you had only been in the Prosecutor's office about an hour and a half when you started in to accuse Hayes of this murder, is that right? A After he was confronted by me.

Q Well, at that time, Schneider, you were not out of your mind or crazy or anything else, were you? A I was

suffering with a sore finger, which was enough to make anybody out of their mind, with a sore finger, or anybody else.

Q So that is the reason you signed this statement, that you now give, is the fact that you had a sore finger, not the fact that you were bothered, and out of your mind by reason of the threats, or anything else of the Prosecutor's officers, is that correct? A I was bothered with the sore finger and pestered too by them up there asking me questions and throwing them at me.

Q You hadn't lost any sleep at two thirty in the afternoon, had you? A I hadn't had no sleep.

Q What? A I had no sleep.

Q What? A I had no sleep since I was brought down.

Q You were brought down at one o'clock in the afternoon, weren't you? A Yes, sir.

Q And this was at two thirty in the afternoon we are talking about, that is true, isn't it? A Yes, sir.

Q You didn't want any sleep between those hours, did you?

A Well, I didn't have any on the night before.

Q You didn't want any the night before? A No, sir.

Q We are talking about Sunday, understand, not Monday. When you signed this first statement on October 8, I want to know whether you signed that statement because of your sore finger, or because of something that happened to you in the Prosecutor's office. A On account of my sore finger, and the way they throwed it at me in the Prosecutor's

office.

Q They had only been at you for an hour and a half, isn't that true? A Well, they was arguing there with me before, before they started the statement.

Q Well, you only came in at one o'clock, didn't you?

A Yes, sir.

Q And this was at two thirty we are talking about, that makes an hour and a half, isn't that correct? A Yes, sir.

Q And the only thing they told you up to that time was to tell the truth, isn't that right? A Tell the truth and come on you know more than you have told us.

Q Now, if there was anything else said I want to know what it is now? I want to know if that was all was said.

A I couldn't say what else was said there. There was a whole lot of stuff said. I couldn't remember it all.

Q Yes, but everything connected with making the statement was an urge for you to tell the truth, isn't that right?

A Yes, sir.

Q And under the strain of one hour and a half of urging to tell the truth, you, knowing it to be a lie, made this statement against Clifford Hayes, is that right?

A Yes, sir.

THE COURT: You are talking now about the statement of Sunday afternoon, are you not?

MR. TOOLAN: Sunday afternoon; yes, sir.

Q You were in possession of your reason at that time, weren't you, Schneider, that is you knew^{what} you were doing?

- A I didn't know what I was doing all the time there.
- Q Well, now, what part didn't you know what you were doing?
- A In fact I didn't know what I was doing all day there.
- Q No, but at the time you made this statement I want to know at that time. I don't want to get beyond that right now. At that time you made that statement you knew what you were doing, didn't you? A Yes, sir.
- Q And you made it freely, didn't you? A I didn't make it freely; no, sir.
- Q What time, Schneider, did you say that you signed this statement on October 8? What time of the day was it? What time of the day was it on that Sunday that you signed that statement? A I should judge it was after five o'clock.
- Q You were kept there after five o'clock, weren't you?
- A Yes, sir.
- Q And you stated on your direct examination that one reason why you made a statement was so that you would get out of the possession of the Prosecutor's office, that is correct, isn't it? A Yes, sir.
- Q Now, ^{you} were kept there hour after hour after five o'clock that evening, weren't you? A Yes, sir.
- Q And men talked to you as much after you made that statement as they did before, didn't they? A Yes, sir.
- Q And you were repeatedly questioned along the line to prove to you that what you said about Clifford Hayes wasn't true, weren't you? A Yes, sir.

Q The men in the Prosecutor's office tried to prove to you that it could not be true, didn't they? A No, sir; they did not.

Q They told you that the things that you said didn't hang together, didn't they? Didn't they tell you that?

A I don't think so. I don't remember them saying it.

Q You admitted a moment ago that I or somebody else told you that it was too unnatural for you and Hayes not to talk to each other when you were walking down the street, you were told that, weren't you? A Yes, sir.

Q And you were told that part couldn't be true, weren't you?

A Yes, sir.

Q And still you stuck to it? A Yes, sir.

Q Hour after hour under that sort of questioning, didn't you?

A Yes, sir.

Q And you were always told to tell the truth, isn't that right? A Yes, sir.

Q That was driven into you by every one of us in the office, isn't that correct? A Yes, sir.

Q Well, if you made this statement because you wanted to get out of the possession of the Prosecutor's office, and yet you were kept there hour after hour being questioned on your statement, you knew then that you were not going to get out of the possession of the Prosecutor's office by making that statement, didn't you? Didn't you know that?

A I didn't.

Q Didn't it dawn on you, or didn't it strike your mind, when

they didn't let you go home after making the statement, that they was going to keep you there, just the same as if you had made no statement at all? Didn't that strike your mind? A No, sir; it did not.

Q Well, when you found out on Sunday night at eleven or twelve o'clock that you were still being kept there and still being questioned, why didn't you tell them that it wasn't the truth? A How could anybody tell the truth in agony and suffering and pestered the way I have up there that day?

Q Is it an effort for you to tell the truth? Is it?

A Certainly I can tell the truth.

Q Is there any relation between agony and lies? A No, there is not.

Q Is it easier to lie when you are in agony than tell the truth? A No, sir; it is not.

Q One of the things that prompted you to make this statement was because you wanted to get home, is that right?

A Yes, sir.

Q And you were satisfied to make a statement accusing a man of murder just simply to get home, is that right?

A Yes, sir.

Q Do you remember the time the food was brought in upstairs on that Sunday night? A There was no food brought in to me on Sunday night.

Q You didn't see any of the men up there in the office leave to go out and get anything to eat, did you? A I never

saw someone go out of the office.

Q You saw food brought in, didn't you? A I didn't see no food brought in.

Q You were kept there on Monday, weren't you, you were still there on Monday morning? A Yes, sir.

Q And still there Monday afternoon, weren't you? A Yes, sir.

Q And you were asked there repeatedly on Monday whether or not your statement was true, isn't that correct?

A Yes, sir.

Q And you still insisted it was true, isn't that right?

A Yes, sir.

Q Didn't you know at that time that you were not going to be let go home because you made that statement, you knew then, didn't you? A Yes, sir.

Q As a matter of fact didn't you know on Monday, and weren't you told on Monday that if Hayes was guilty of murder, that you were guilty of murder, weren't you told that?

A Yes, sir.

Q And do you remember being up in the Prosecutor's office Monday morning, Monday afternoon and do you remember Mr. Stricker telling you that you were in this thing fifty-fifty with Hayes, do you remember that? A Yes, sir.

Q Or did you use the term fifty-fifty? A Mr. Stricker did.

Q Mr. Stricker put that word in your mouth, and don't you remember Mr. Stricker telling you or asking you whether

or not you knew that Hayes had a revolver on that night, you remember that, don't you? A Yes, sir.

Q When was the first time Mr. Stricker spoke to you?

A I think it was on Monday.

Q He never saw you until Monday, did he, Mr. Stricker that is, never saw you until Monday? A I think that is when he seen me.

Q And when Mr. Stricker saw you didn't he take your statement every bit of it and go over it with you? A He went over the statement.

Q And didn't he start in on your trip down here near Johnson & Johnson's with Hayes and Kaufman and ask you whether you knew that Hayes had a revolver? A Yes, sir.

Q And you told him that you did? A Yes, sir.

Q And he asked you whether or not you heard Hayes threaten to shoot old man Bahmer if he saw him having connection with Pearl, didn't he ask you that? A Yes, sir.

Q And you told him that you heard Hayes make that threat? A Yes, sir.

Q And he asked you whether or not knowing that you still continued to go along the street with Hayes, he asked you that, didn't he? A Yes, sir.

Q And you answered that you did, didn't you? A Yes, sir.

Q And he asked you if you didn't know that you were going along with a man who had murder in his heart, accompanying him and encouraging him on a joint mission that you were equally guilty with Hayes? A Yes, sir.

Q He told you that didn't he? A Yes, sir.

Q And didn't he tell you that to try and make you realize that even you were guilty of murder, didn't he? A Yes, sir.

Q And still you said it was the truth, didn't you?

A Certainly.

Q What? A Yes, sir.

Q And it was for that reason, wasn't it, that you were asked to make this other statement on October 9, so that he would have it brought home to you, so that you would know that by your statement you were making yourself guilty of murder, and still you said it was true?

MR. SEDAM: I object to that question because that calls for a conclusion.

THE COURT: I think it is proper, Mr. Sedam.

Q Isn't that right? A Yes, sir.

Q And isn't that the real reason why you made this other statement on October 9 so that you would have in that statement the fact that you yourself knew that you were equally guilty with Hayes? A Yes, sir.

Q And you sat up in the upper office here and answered all the questions that were put to you, didn't you?

A Yes, sir.

Q You understood all those questions didn't you? A Understood the majority of them all.

Q And you were intelligent enough to make answer to all the questions? A Yes, sir.

- Q And it was after your talk with Mr. Stricker when these things were brought to you that this statement of Monday October 9, was made, isn't that true? A Yes, sir.
- Q And didn't Mr. Totten go to you when they were taking Clifford Hayes, or just before they took him out of this building, and say to you, "Schneider, you are sending this boy to the electric chair, now I am talking to you like a father, if it is not true, tell us now, so we won't take him away"? A He didn't say that to me.
- Q Well, now, did he say anything along that same line?
- A Not on that line, he didn't. He said tell the truth, you are not telling it, that is all he said.
- Q He said, you are not telling it, and he asked you to tell the truth, isn't that right? A Yes, sir.
- Q He told you that you were sending Hayes to the electric chair, didn't he? A No, sir; he did not.
- Q Well, you knew it, didn't you? A Yes, sir; I did.
- Q When you were confronted with Hayes, Hayes said to you, "My God do you realize what you are doing"? Didn't he say that? A Yes, sir.
- Q Didn't he say, "Don't you know that you are trying to send me to the electric chair"? A Yes, sir.
- Q And didn't you say, "I know it, but you did it, and it is true"? A Yes, sir.
- Q Do I understand you to say then that you were confronted with Hayes twice? A Twice.
- Q And on that occasion when you had that talk about the

electric chair, you were not under any force or threat or anything else then, were you? A The second time I was confronted by Hayes was on the statement.

Q Hayes was taken away before you signed this second statement, wasn't he? A I don't know as he was taken away before the second statement was signed or not.

Q Hayes told the truth there, didn't he? A Yes, sir.

Q And he was there just as long as you, almost, wasn't he, isn't that right? A I don't know if he was there or not as long as I have been.

Q Well, you say he was there at two thirty in the afternoon, Sunday, isn't that right? A Yes, sir.

Q And he was still there on Monday, is that correct?

A Yes, sir.

Q And he was given, while you were in there, the same sort of treatment that you were given, wasn't he? A I don't know.

Q Well, while you were present he was treated the same way?

A I don't know how he was treated.

Q What is that? A I couldn't say how he was treated.

Q Well, when you were present? A He was treated--they didn't bother him when I was in his presence.

Q Now, Schneider, on this statement of October 9, you say you read this statement over, is that right? A Yes, sir.

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AFTERNOON SESSION 2 p. m.

- Q Schneider, have you any trade? A Yes, sir.
- Q What are you? A Electrician.
- Q And you have worked at that trade? A Worked at it the majority of the times.
- Q You have always worked regularly, have you, worked steady?
- A Always.
- Q Now, you withdrew your statement that you made accusing Clifford Hayes of this murder, did you not? A Yes, sir.
- Q You made your first statement withdrawing the charge in the jail at Somerville, did you not? A Yes, sir.
- Q In the presence of Prosecutor Beekman and Detective Totten and several people, did you not? A Yes, sir.
- Q And the statement that you made then was taken down by question and answer before a stenographer, wasn't it?
- A Yes, sir.
- Q Do you remember Mr. Totten starting that interview in this way, saying, last night you and I had a talk in this room in the presence of Mr. Maggiore, in which you retracted in part some of the statements made in these talks with me and various other officers in New Brunswick last Sunday evening and during the day on Monday; you told me that you had told a falsehood and wanted now to tell the whole truth to the Prosecutors in the presence of other witnesses, and at the same time you told me why you lied in these statements, did Mr. Totten make a statement to that effect?

A Yes, sir.

Q Do you remember Mr. Beekman asking you: "Why did you lie in the previous statement that you made"? A I am pretty sure I do.

Q And do you remember answering him: "Because when I first gave the statement I told that I was on the Phillips farm, and later when I made a statement that I was not near the Phillips farm, Mr. Hayes, and Miss Bahmer said that I was on the property with Hayes"? A Yes, sir.

Q And do you remember Mr. Beekman saying to you: "That contradiction of his of your story is what induced you to make a farce statement against him", do you remember Mr. Beekman asking you that? A Yes, sir.

Q And do you remember replying, "Yes, sir"? A Yes, sir.

Q Do you remember him saying, "They both contradicted you and lied against you, say you lied too", do you remember them asking you that? A Yes, sir.

Q And do you remember saying, "Yes, sir."? A Yes, sir.

Q And do you remember him asking you who told you too?

A Yes.

Q Do you remember you saying, "Nobody, Mr. Beekman"?

A Yes, sir.

Q Do you remember him asking you, "You had an idea then in your own mind that you would have to lie against them because they had lied against you, and you accused Clifford Hayes of being present with you on Friday morning September 15, by a crab apple tree where Mr. Hall and Mrs. Mills

bodies were later found, and that William and Hayes were there at that place, he shot three or four more shots in the direction of the bodies of Mr. Hall and Mrs. Mills", do you remember him asking you that? A Yes, sir.

Q Do you remember you saying, "Yes, sir."? A Yes, sir.

Q Do you remember him asking you, "Is that the only reason you have for telling a falsehood"? A Yes, sir.

Q Do you remember that you answered, "Yes, sir."? A Yes, sir.

Q Do you remember him asking this question, "You did not make that statement at the time to protect yourself against a charge of murder, did you," do you remember him asking that? A I think I do.

Q Do you remember that you said, "No, sir"? A Yes, sir; I did.

Q And do you remember him asking you, "And in that statement you said, I made this statement to Mr. David and Mr. Beekman without any force, threat, or promises or reward, and I understand this statement can be used against me, but I am telling the truth", do you remember him asking you whether that was in that statement? A Yes, sir.

Q Do you remember him quoting to you the statement that you had made accusing Hayes of murder, and then asking you whether or not that statement was true or untrue?

A Yes.

Q And at the time you said it was absolutely untrue. "Do you remember being confronted with Hayes back in the room

of the Prosecutor's office last Sunday night", did he ask you that? A No, sir; he did not.

Q Do you remember him asking you whether or not Hayes said to you that you were a liar? A Yes, sir.

Q Do you remember him asking you now who is the liar he or you? A Yes, sir.

Q Do you remember saying, "I am"? A Yes, sir; I do.

Q Do you remember this question, "Now, can you give us any other reason why you should have lied about Clifford Hayes on last Sunday night, or any other time, other than that you have already told us", and do you remember your answer, "No, I cannot"? A Yes, sir.

Q Do you remember him asking you, "You were asked on all occasions by everybody to tell the truth"? A Yes, sir.

Q And you answered, "Yes, sir". And do you remember him asking you, Mr. Totten particularly, and on many occasions, repeatedly asked you to tell the truth and nothing else, didn't he? A Yes, sir.

Q And do you remember answering this: "I am very sorry I did not take his word, I did not realize what thing it was; yesterday I had been looking for Mr. Totten, but couldn't see him", do you remember that? A Yes, sir.

Q Do you remember him asking you, "Why were you looking for Mr. Totten"? A Yes, sir.

Q And you said, "To tell Mr. Totten to get this thing settled, my heart goes out for Hayes's parents and my own people, that was the reason I was looking for Mr. Totten", do you

remember saying that? A Yes, sir.

Q And then after that you were brought over before the Justice of the Peace, Mr. Sutphen, for Hayes's hearing were you not?

A In the station house there at Somerville.

Q Before the Justice of the Peace and you had a hearing is that correct? A Yes, sir.

Q And do you remember that some questions were put to you there before the Justice of the Peace? A Yes, sir.

Q Do you remember at that hearing being asked, "Now why did you tell this lie, referring to the statement that you had made against Hayes,"? A Yes, sir.

Q And do you remember answering, "Well, Mr. Beekman, the first statement I gave I was telling you the truth, but Clifford Hayes and Pearl Bahmer contradicted me", do you remember saying that? A Yes, sir.

Q Do you remember this question: "In other words, Clifford Hayes and Pearl Bahmer had contradicted the statement made by you the first time that you appeared in the Prosecutor's office when they were present", and do you remember answering, "Yes, sir"? A Yes, sir.

Q And then, you were asked, "You were angry at them for contradicting you on that occasion", do you remember being asked that? A I don't remember being asked that.

Q Do you remember answering, "Yes, sir; I was"? A No, sir; I do not.

Q Do you remember being asked, "and is that the only reason that you can give for making this accusation", do you

remember being asked that? A Yes, sir.

Q Do you remember you answering, "Yes, sir."? A Yes, sir.

Q Do you remember being asked, "And now that you say in spite of all these assertions that you have made your statement was false", do you remember being asked that?

A Yes, sir.

Q Do you remember answering, "I made two statements, the second pretty near the same as the first"? A Yes, sir.

Q And do you remember having the statement that you made against Hayes quoted to you, and then being asked if you made that statement, and you said, "I did"? A Yes, sir.

Q Then, do you remember being asked, "Is that true or untrue"? A Yes, sir.

Q And you said, "It was untrue"? A Yes, sir.

Q And then being asked, "And did you make this statement for the same reason that you have already given"? A Yes, sir.

Q And that you answered, "Yes, sir; I did"? A Yes, sir.

Q And then being asked, "And without any other reason"? A Yes, sir.

Q And you answered, "And without any other reason"? A Yes, sir.

Q Now, Schneider, why didn't you, either when you made this statement to Mr. Beekman over in the jail, and Mr. Totten, or when you made these answers before the Justice of the

Peace at the Police Court hearing, and they asked you what reason you had for telling this lie, why didn't you tell them then and there that you signed the first statement because you were tired and weary, or something else, whatever your reason was? A I do not know why I didn't.

Q Well, you had spent a couple of days in jail thinking this thing over hadn't you? A Yes, sir.

Q And you knew and had figured out what your reason was for accusing Hayes, didn't you? A Yes, sir.

Q And when you were asked by Mr. Beekman why you accused Hayes you told him because Hayes had previously contradicted you, isn't that true? A Yes, sir.

Q And as a matter of fact wasn't that the only reason that you had at that time? A No, sir; it was not.

Q Why didn't you tell them so? A It just slipped my mind just at the present time.

Q As a matter of fact weren't you jealous of Hayes?

A I wasn't exactly jealous of Hayes.

Q Well, what were you exactly then? A Couldn't say.

Q Your recollection was just as good, or possibly better, when you were talking to Mr. Beekman privately in the jail, or when you were talking to him before the Justice of the Peace, wasn't it, as it is now? A Yes, sir.

Q And yet at the time you didn't suggest anything but this one reason that you gave in that statement that you were sore at Hayes because he contradicted you? A Yes, sir.

Q Was that the truth? A Yes, sir.

MR. TOOLAN: That is all I have.

REDIRECT EXAMINATION BY MR. SEDAM:

- Q Raymond, during the time that you were in the Prosecutor's office here in New Brunswick, and during the time that you were having confinement in the Somerset County Jail, did you have anybody either friends or relatives to talk with or advise with? A No, sir.
- Q This change of statement which Mr. Toolan has referred to as being made in Somerville, at the interview with Mr. Totten, and also in the Justice's office, was made after you had been in the Somerset County Jail three or four days, wasn't it? A Yes, sir.
- Q And after the statement involved in this perjury charge had been made? A Yes, sir.
- Q And during the three or four days that you were confined in the Somerset County Jail you were there quiet and alone, weren't you? A Yes, sir.
- Q You didn't have any troopers or detectives after you during those three or four days, did you? A No, sir; I did not.
- Q And that was when, in reply to a question, a question that has been put to you, you changed your statement, because of your thoughts of Mr. and Mrs. Hayes, and because of your thoughts of your family? A Yes, sir.
- Q That is why you did change it, isn't it? A Yes, sir.
- Q Now, then, in this yellow statement, the Prosecutor asked you this morning whether this statement on this yellow paper was true or not, and your answer was that it was not true. Have you any desire to change the reply which you

made this morning in court with reference to this yellow sheet of paper, this yellow statement, as to what part is true and what part is not true? A Yes, sir; I have.

Q Well, what have you to say about this paper? A The paper is true up to the time Pearl Bahmer confronted me and told it was not true. The only thing that is not true into it, I didn't put in about Hayes and Leon Kaufman.

Q Why didn't you put in this first yellow paper about Hayes and Leon Kaufman? Why didn't you bring their names in on this yellow statement? A Because it was only a question of finding the bodies when I was brought down to the Prosecutor's office, and they wasn't with us on the Saturday we found the bodies.

Q Aside from leaving out the part not having told about Kaufman and Hayes in this first statement, I want to know, and I want you to tell the court and jury whether that change in this yellow statement is true. A Yes, sir.

Q You have answered, "Yes, sir; Yes, sir; Yes, sir" to practically every question that Mr. Toolan has put to you on your cross-examination.

MR. TOOLAN: I object to that.

THE COURT: Objection sustained.

Q When you were being cross-examined in connection with the changing of these statements in Somerville, did you attempt to explain anything, or did you just answer, "Yes, sir"

every time?

MR. TOOLAN: I object. That statement is in evidence and I think the statement speaks for itself.

MR. SEDAM: The one before Justice Sutphen.

MR. TOOLAN: Do you want the other statement in evidence? I will put it in.

MR. SEDAM: I think so. It has been referred to.
(Statement entered in evidence and marked Exhibit-P-5.)

THE COURT: Can you put it in?

MR. TOOLAN: I understand counsel for the defense wants it in.

THE COURT: If you agree, it goes in. Otherwise you cannot put it in, through a man who is not your own witness.

MR. SEDAM: I do agree.

THE COURT: All right, then, it is in.

THE COURT: The statement does speak for itself, but still the statement may be subject to explanation.

(Question repeated by stenographer.)

THE COURT: I will allow that.

Q What is your answer? A Yes, sir: I did.

Q Did Mr. Toolan, the Prosecutor, tell you in the office upstairs, before you were taken to Somerville, that he didn't believe this story was true and tried to find out

from you further as to what was true? A He told me it wasn't true.

Q He told you it wasn't true? A Yes, sir.

Q Why didn't you at that time, Raymond, speak up and say that it wasn't true? A I left everything pass the way it was, because I was too sick to hold up my head to do anything.

MR. SEDAM: I think that is all.

RE-CROSS-EXAMINATION BY MR. TOOLAN:

Q So that Mr. Schneider, do you want us to understand that at the hearing before Justice Sutphen, when you repudiated your statement against Clifford Hayes, and after you had been through this horrible experience, that even then you had absolutely no regard for the truth and were willing to answer yes to every question that was put to you?

A Yes, I did.

Q How long have you known Pearl Bahmer? A Since August 1921.

Q And you had gone out quite frequently with her in the meantime?

MR. SEDAM: I object to that.

THE COURT: I will allow it.

Q Is that right? A I went out with her from August 1921.

Q And you were infatuated or almost in love with Pearl Bahmer were you not? A Yes, sir.

Q And you were extremely jealous of her, weren't you?

A Yes, sir.

Q How long had Clifford Hayes known Pearl Bahmer? A I couldn't give a statement on that how long he knew her.

Q Were you jealous of Clifford Hayes or afraid that he was trying to steal the affections of Pearl Bahmer? A No, sir; I was not.

Q That fact didn't prompt you to make this accusation against him, did it? A No, sir.

Q On this statement here of September 24, that your counsel has just spoken to you about again, do you mean to say that this statement is true, and that the statement about your being in company with Clifford Hayes and young Kaufman on the night of September 14 contained in your statements of October 8 and October 9 is untrue? A They are true.

Q What? A They are true, that statement there is, because that was the only thing is missing out of that statement is the part where Hayes and Kaufman and I was together.

Q According to this statement you don't mention Hayes's name or Kaufman's name at all on that night, do you?

A No, sir; I do not.

Q And the fact is that you were in there company from about eight or nine o'clock that night, that is in the company of Hayes and Kaufman until a little after ten o'clock, when Kaufman went home, isn't that right? A Yes, sir.

Q And you were in the company of Hayes, that is you and Hayes together up to about one o'clock, is that right?

A Yes, sir.

Q And in this statement you say that you were in Pearl Bahmer's company until 9.45, is that right? A Yes, sir.

Q And that then you went home and stayed at home and went to bed between eleven and eleven thirty, is that right?

A Yes, sir.

Q How can both of those statements be true? A Well, I didn't think they meant anything by putting Hayes and Kaufman ^{into} it, because it wasn't--Hayes and Kaufman and I wasn't together the day we found the bodies, so I didn't think that had anything to do with it.

Q So because Hayes and Kaufman were not with you the day you found the bodies you thought you could tell a lie about what happened on the night of the 14th, is that right?

A No, I didn't think that way.

Q Well, will you please explain to me what you did think? I don't know. A I figured this way, well, what was the use of putting Hayes into the thing, he wasn't up there that day, being that is the day the bodies were found.

MR. TOOLAN: That is all.

C L I F F O R D H A Y E S, a witness produced on behalf of the defendant, being duly sworn according to law, on his oath, saith:

DIRECT EXAMINATION BY MR. SEDAM:

- Q You are the young man whose name has been mentioned in connection with this proceeding, aren't you? A Yes, sir.
- Q Do you remember Sunday, October 8, 1922? A Yes, sir.
- Q Where were you on that day? A Home until one o'clock, then I went to the ball game at Bucleuch Park and left there between five and five thirty and went home and then I just got in the house, Mr. David came after me and told me they wanted me down at the Prosecutor's office. I went down to the Prosecutor's office with them and got there about six o'clock, nearly six.
- Q After you went to the Prosecutor's office how long was it before you saw Schneider, in the Prosecutor's office, if you saw him? A I saw him in the waiting room there right away, he was sitting there when I went in.
- Q And after you were taken there who spoke with you?
- A Mr. Spearman, the State trooper was the first one and then Mr. Totten from Somerville.
- Q Were you taken into the presence of Schneider after a time?
- A Yes, sir.
- Q How long after had you had come into the building were you taken into his presence? A About four or five hours.

About five hours, I should judge.

Q Four or five hours afterwards? A Yes, sir.

Q During those four or five hours what was happening?
What was going on in your presence?

MR. TOOLAN: I object on the ground that it is not material. I have no objection to Mr. Hayes telling it, but I want to get my objection on the record that as far as this proceeding is concerned it is not relevant. However, I have no objection to permitting it to go on the record.

THE COURT: Go on.

A They were just talking to me, they was all asking me questions about where I was on the night of September 14.

Q During four or five hours? A Yes, sir.

Q Continually asking you questions? A Yes, sir.

Q Did they find out in four or five hours where you were?

A Yes, sir.

Q Where you taken in the room where Schneider was? A No, sir. Schneider came into the room where I was. I asked for him.

Q About what time was that, have you any idea? A That was just between eleven and half past eleven.

Q At night time? A Yes, sir.

Q And when Schneider was brought into your presence in that room, what took place there, Hayes? A Me and him had a little argument.

Q Tell us what it was? A I asked for him to come in there, I asked Mr. David would he bring him in, if he was there, and he said he would. So he brought him in and he set him down along side of me and asked Raymond who I was, and he said Clifford Hayes. Then he asked me how long I knew Raymond. I said between six and seven years, personally. He said all right. Then I said to Raymond, I understand here you accuse me of taking your coat that night and putting it on. And he said you did. And I said I didn't. He said you did, I took it off and rolled up my sleeve, and told where he took it off, near the end of Johnsons, right across from the Scarlet Club, and he handed it to me and I wanted to put it on. I said I never put it on, I took your coat after you, when you took your coat off your back you handed it to Leon Kaufman first and Leon Kaufman carried it just about three or four steps and he handed it to me and I took it and put it over my shoulder. I never even opened it, foulded it up and put it over my shoulder.

Q This conversation took place there? A Yes, sir.

Q What else was there? A I said I only went as far from the end of Johnsons, to the end of the fence, where the mustard house is, there is a big fence there and I handed the coat right back to him and he put it on. He said, you didn't, you wore it all the way up to the park, you wore it out to the park and you wore it all around the Phillips farm. I said to him you are a liar, I didn't

have it on. In fact I called him liar, and damn liar three or four times. I said you wasn't near the Phillips farm with me. I can't say that you wasn't there, you might have been, but you was never near the Phillips farm with me. He said you was so. He said we were both out there together, and you killed them, and I am fifty-fifty with it. I didn't even know at that time that I was charged with killing anybody. They never told me before I was up for any killing, they just were telling about if I was out there across Easton Avenue and so and so, and that was all. He said tell the truth. I said that is what I am doing. I denied ever being across Easton Avenue, in fact, on the other side of the band stand at Bucleuch Park with anybody that night.

Q Now, Clifford, while these officers or detectives were questioning you during that period of four or five hours did you make any statement? A No, sir.

Q Charging Schneider with being out at the Phillips farm?

A No, sir.

Q You don't know, of course, whether any officer went in to Schneider and told him that you had said so? A No, sir.

MR. SEDAM: That is all.

MR. TOOLAN: No questions.

MR. SEDAM: That is our case.

MR. TOOLAN: We have nothing further.

Mr. Sedam sums up the case for the defendant.

Mr. Toolan sums up the case for the State.

1. Schneider made statement at

Police Headquarters on
Sept 16, 1922 on yellow paper

2. Next statement on Sept 24 and

taken back after he was con-

fronted with Pearl at New Brunswick

3. Final statement on Oct 8 & 9 at New Brunswick

about the same - accused Snyder

and recounted at hearing by

Subj then on Oct 12 at Somerville.

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Maintained at the trial that he went to

Brooklyn Park with 1600 ft Kampman.